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ROYAL COMMISSION ON TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO THURSDAY FEBRUARY 23, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS

COMMISSIONER

HENRY FORBES ANGUS

- COMMISSIONER

G.R. Hunter Secretary

P.L. Belcourt Asst. Secretary

COUNSEL APPEARING: -

F.M. Covert, K.C. G.C. Desmarais, K.C.	}	Royal Commission on Transportation
A.H. Hart)	Canadian National Railways
C.F.H. Carson, K.C. F.C.S. Evans, K.C. I.D. Sinclair	}	Canadian Pacific Railway
C.D. Shepard)	Province of Manitoba
M.A. MacPherson, K.C.)	Province of Saskatchewan
J.J. Frawley, K.C.)	Province of Alberta
F.D. Smith K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade
J. Paul Barry)	Province of New Brunswick
C.W. Brazier	}	Province of British Columbia
F.R. Hume M.L. Rapoport	}	Canadian Automotive Trans- portation Association

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Ottawa, Ontario, Thursday, February 23,1950

MORNING SESSION

--- The Commission met at 10.30 a.m.

MR. HART: Your lordship will remember yesterday when I was giving the Commission some information on the salt rate from Malagash to Temiskaming that you asked if there was anything to show the relationship between the rate established by the Board at that time and what the straight line rate would have been for the same distance. That request is found in volume 81, page 16119. distance from Malagash to Temiskaming for the two-line haul is 1095 miles, and the Commission will remember the rate established by the Board in order 40081 was 361 cents per 100 pounds. For the single-line haul from Malagash to Barrie, Ontario, which is a distance of 1087 miles, or seven miles shorter than the other distance, our single-line rate at that time was 34 cents per 100 pounds, so the joint through rate was 21 cents more per 100 pounds for very comparable distances. also informed that before the joint through rate of 362 cents per 100 pounds was ordered in by the Board the rate in effect at that time was actually a through 10th Class rate of 42 cents.

THE CHAIRMAN: What kind of rate?

MR. HART: A through 10th Class rate of 42 cents per 100 pounds.

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C. E. JEFFERSON, RECALLED

CROSS-EXAMINATION BY MR. BRAZIER (Cont'd)

- Q. Just before we start, Mr. Jefferson, there is one question I wish to ask you regarding transcontinental traffic. I have noticed recently that an additional ship is now sailing between the maritimes and Vancouver. Are you aware of that fact?
 - A. Yes, sir.
- Q. It was never contemplated that they would sail during the winter months before, I presume?
- A. Well, they did some years ago when the Vancouver-St. Lawrence line was in operation.

THE CHAIRMAN: Q. When what?

- A. When the Vancouver-St. Lawrence line was in operation before the second war, but there was a ship --
 - Q. You say at that time they did sail in the winter?
 - A. Yes, sir.
 - Q. From Saint John?
- A. From Saint John and Halifax in the winter and Montreal and Quebec in the summer.

THE CHAIRMAN: You say, Mr. Brazier, do you, that they are going back to that now?

MR. BRAZIER: Yes, that is what I was asking Mr. Jefferson, whether he was aware of that fact that they are going back to that.

THE WITNESS: Last fall we had some few ships between Montreal and Vancouver, which ships called at Three Rivers, Quebec and Sydney. There was a sailing this week from Halifax with a call at Saint John to-morrow or the next day, and our information at the moment is that the ship will carry a quantity of soap originating at Toronto and Hamilton, railed to Saint John, and the steamer from Saint John to Vancouver. There will also

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be some automobiles from Oshawa, some glass from Montreal and steel from Sydney.

COMMISSIONER ANGUS: Q. Does anyone quote a rate, shall we say, from Hamilton to Vancouver or does the shipper send to some point such as Halifax and then transship under some arrangement?

- A. The shipper ships in this instance to Saint John or Halifax in care of the ship, and then it is loaded on the ship at those ports. I am not speaking authoritatively, but I suppose the shipper gets the ocean rate from the water carrier and adds to it the rail rate and the terminal charges at Saint John and Vancouver, for instance, and determines whether the through charges will be less than the rail charges. Apparently they are; otherwise he would ship by rail, but whether or not the ocean carrier would name a through rate and absorb the other charges I do not know. I think the way I mentioned first is the way it is really done.
- Q. And from the shipper's point of view that would make two transactions or one?
- A. Well, two; I mean to say he would ship to Saint John the same as he ordinarily does. He would have a rail bill of lading to Saint John and then he would have an ocean bill of lading from Saint John to Vancouver.

THE CHAIRMAN: Q. Mr. Jefferson, what company operates these boats? Is it the same company --

- A. The same company as I mentioned earlier in my evidence. It is steamers chartered from the -- I think they call it the Altpac Line, but the agents for Altpac --
 - Q. I suppose that means Atlantic-Pacific?
- It may. The steamers are chartered by the Monsen-Clarke Company, the steamship agents in Montreal, who carry on the arrangements between the shippers, make

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arrangements for handling the traffic on the steamer.

COMMISSIONER INNIS: Q. What sort of goods would they be particularly effective in competing on?

- Well, you never know. It may be any traffic. I mean by that I filed an exhibit in my direct evidence. I can give you the number of it, Exhibit No. 146, where I showed the commodities which were handled on the Eskdalegate from Montreal on May 5th, 1949, and the Seaside on September 11, 1949, and since September there were two other steamers from Montreal.
 - How long does it take to make the voyage?
- I would think it takes a month to six weeks to make the voyage from Montreal with their calls at Three Rivers, Quebec and Sydney.
- Q. It is a little difficult to understand how they could compete in high-priced goods where inventories would run up interest charges because of the length of time it takes?
- A. You would, but apparently the ocean rates are so much lower that, taking all factors into consideration, it must be cheaper than by rail.
 - Have you checked their rates against yours?
- We do not know what their rates are except such information as we can obtain from shippers.
 - The rates are not published?
- Oh, no; no, sir. Our rates, Hamilton and Toronto to the seaboard, are published, but the rates from Montreal or Saint John or Halifax to Vancouver are not published. When making competitive rates we make every effort to determine either from the shipper or consignee what charges he is paying by the rail and water route, and if we make a competitive rate to compete with it, as I said before, we invariably make it higher because

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we think our rail service justifies a higher rate.

MR. BRAZIER: I might give some information on that, Dr. Innis. At the Victoria hearings I filed a statement of the goods shipped in the first one together with the rates.

COMMISSIONER INNIS: You included the rates? MR. BRAZIER: Yes. After that I found it rather difficult to find out exactly what the rates were, except from the individual shippers.

COMMISSIONER INNIS: The rates which you filed were not accurate.

MR. BRAZIER: Those were accurate, but after that the company did not wish to disclose those rates. I just call attention to the fact that the ocean rate on canned goods, which has been discussed a great deal here, was 75 cents a hundred, but to make a proper comparison of the ocean rate and the rail rate you do have to add certain additional wharfage charges which at the maximum would be 24 3/4 cents a hundred, which would make the ocean rate on canned goods at that time \$1 as against \$1.40 by rail.

- Q. Is that correct?
- A. That would be from Montreal, yes, sir.
- Q. I notice in this list of ocean rates we have there are automobiles. That would be a high priced commodity?
 - A. That is Exhibit 27, is it not?
- Q. That is right. That would be a high priced commodity shipped by water?
 - A. Oh, yes, the individual car --
- Q. At that time they were charging \$100 for each car or truck. How would that compare with the rail charge from Montreal?

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- A. Well, it depends on the number of automobiles in the car.
 - What is the normal loading, four cars? Q.
- That would be the maximum loading. Some cars we only get three in an automobile car.
 - What would be the approximate --
 - Well, I could work it out.
- I suggest it would be in the neighbourhood of \$180 per car?
 - Α. Have you the rail rate?
- No, I have not the rail rate, but it carries the full class rate now, does it not?
 - No, we have a commodity rate to the coast.
- I think it is just the class rate now, Mr. Jefferson?
- Mr. Buckingham tells me that our rate to-day from Montreal, or an automobile shipping point, to Vancouver is \$7.10 per 100 pounds with a minimum of 10,000 pounds to the car.

THE CHAIRMAN: Q. What was that you said last?

A minimum of 10,000 pounds to the car. That would be \$710 for carrying a carload to Vancouver. If there were four cars in the car the cost would be \$177.50 for each machine. If there were three cars to the car the cost would be more per machine.

MR. BRAZIER: Q. At one time you did have a transcontinental rate on automobiles, did you not?

- Α. Yes, sir.
- And that has been eliminated in the recent revision of the transcontinental rates?
 - A. Yes, apparently it has.
 - Q. Does the fact, Mr. Jefferson, that on this ship

sailing this week there are automobiles being shipped from Oshawa to Halifax and then by water to Vancouver indicate to you that the ocean rate must be much less than the rail rate from Oshawa?

- A. Yes, sir. We charge our first class rate from Oshawa to Saint John.
 - Q. Which would be how much?
- A. Have you the first class rate from Oshawa to Saint John?
 - Q. Probably we can get it later, Mr. Jefferson.
 - A. Yes, sir.

(Page 16200 follows)

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- Q. Now, you mentioned two other commodities being shipped from Ontario points, soap and glass, I think?
 - A. The glass was from Montreal, glass bottles.
 - Q. And soap from -?
 - A. Toronto and Hamilton.
- Q. Have you transcontinental rates for those two commodities at the present time?
 - A. I think we have, yes, sir.
- Q. But even in spite of that, you lose traffic to the ocean steamer?
 - A. That is right, yes, sir.
- Q. Does the running of this additional steamer indicate to you that your competition in this field is going to be more severe in the future than it has been in the last year or so?
- A. Well, it is going to be more than it was during the war years, not only with respect to west-bound traffic, but with respect to east-bound traffic. I had a wire yesterday with respect to an east-bound steamer from Vancouver, the S. S. Riverside, from Vancouver on January 28. It carried lumber for some United States ports, and while it did not carry any lumber to Canadian ports, it did carry 400 tons of canned fish and vegetables for discharge at Halifax and distribution in the Maritimes and I also had advice (I don't know as I have it here) but I also had advice the other day that the MacMillan Interests, who are interested both in forest products, as you know, and the canned salmon industry, in their own protection are going to

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have a steamer at the opening of the St. Lawrence system from Vancouver and other British Columbia ports to Montreal.

- Q. That will be in addition to the lines running at the present time?
- A. Yes, sir, that would be in addition to the lines which the Mansen-Clarke Company represent.

COMMISSIONER INNIS: How much business would they do with American ports?

- A. Well, this first sailing, sir, did not have a large quantity for Maritime ports.
 - Q. Not "Maritime" American?
 - A. American ports?
 - Q. Yes.
- This steamer that I mentioned, the Riverside, from Vancouver on January 28 carried 500 million feet of lumber for discharge at Camden N. J. and New York City.
 - Q. Would there be a good deal of that?
- A. Well, it is just starting in again. This is the first we have had east-bound since the war. There was considerable prior to the second war.
- Q. But my point is, these vessels are not concerned entirely with traffic between Canadian ports; they also carry traffic to American ports. Is that true of all of them?
 - A. Not west-hound, no , sir.
 - Q. Not west-bound?
- A. No, sir, because there would not be enough traffic from Eastern American ports to British

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nga disebut di Barah Milanda. Peranggan Columbia ports. West-bound it is all Canadian traffic, but east-bound the only traffic from British Columbia to American ports would be lumber, except, I might say, that prior to the second war they were shipping fertilizer from Warfield to South-eastern United States ports like Florida, Georgia and the Carolinas ports via Vancouver by rail to Vancouver and water through the Panama Canal. Of course, that is traffic the railways are losing over the transcontinental routes from British Columbia to Eastern United States points as well as to Eastern Canada.

- Q. That is what I was wondering about, the extent of competition on through international rates rather than on strictly Canadian rates.
- A. Well, prior to the war only with respect to forest products and fertilizer.

MR. BRAZIER: Forest products would be the major product exported from British Columbia to Eastern United States?

- A. Yes, sir, that would be lumber and shingles. Now, automobiles from Oshawa to St. John, the first class rate is \$1.50 per hundred minimum ten thousand pounds per car.
- Q. Have you anything else you want to say about that, Mr. Jefferson?
 - A. No, sir.
- Q. I wonder now if you would look at the Submission of the Canadian Pacific Railway Company, Part II. I want to refer you, Mr. Jefferson, to certain statements and then discuss them with you.

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The first is at page 61. In this part of your Brief, you are dealing with the cost of service principle and the value of service principle. In the first place, I would like to call your attention, Mr. Jefferson; to the first sentence which appears after the quotation which appears on page 61. You say:-

"The cost of service, while not the principle on which railway rates are made in Canada, is a factor or consideration in fixing the rates on a given commodity or class of commodities."

Now, do you agree with that?

- A. I will agree with that. As I explained, the tests which I apply to it -
- Q. I will come to those later on, but in principle you agree with that statement?
 - A. Yes, sir.
- Q. Then, on the top of the next page, page 62, you say:-

"Under the value of service, consideration must be given to the compensatory nature of the rate A rate is compensatory if it returns something more than the out-of-pocket costs which are the additional costs incurred by the railway in handling any particular traffic".

I presume that that is a correct statement of your conception of the value of service principle?

A. Yes, sir.

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- Q. Then, further on the same page you speak of the upper and lower limit, the upper limit being the over-all railway cost and the lower limit set by the out-of-pocket costs?
 - A. Yes, sir.
- Q. Now, is it correct to say then, that, in the first instance, the application of this principle to rate making depends on the determination of out-of-pocket costs for any particular traffic?

THE CHAIRMAN:: Pardon me. When you say "upper limits and lower limits", are you talking of dollars and cents?

THE WITNESS: Well, I do not think that we are talking dollars and cents in the term of freight rates, but the upper limit on over-all railway costs I would express in my own language would be the total costs to meet the revenue the railways require for all expenses. I will term it their requirements, if you like, but the lower limit is what we consider would be the non-compensatory rates.

 $$\operatorname{MR.}$$ BRAZIER: Well, as far as the lower limit is concerned - -

THE CHAIRMAN: You say that the lower limit is set by out-of-pocket costs?

- A. Yes, sir.
- Q. Then, the out-of-pocket costs would appear to be the lower limit, not the compensation?
- A. Yes, sir, out-of-pocket costs would be the lower limit. We would not want to go below the lower limit.

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- Q. And the upper limit, you say, is the total amount required to cover the all-inclusive overall railway costs?
 - A. That is right.
- Q. And between those two somewhere, you find the value of service?
 - A. Yes, sir.

MR. BRAZIER: Now, when you speak of out-of-pocket costs, Mr. Jefferson - -

THE CHAIRMAN: I am wondering whether later on we could not get that clarified better?

MR. EVANS: If you would like me to clarify it now, I shall be glad to do so.

THE CHAIRMAN: Well, now then, if you like.

MR. EVANS: I think your lordship put it much as we put it, that the value of service principle involves cost in two respects. In respect of individual rates the lower limit is set by the out-of-pocket costs. In respect of rates as a whole, the upper limit is set by the total limit of the movement of the traffic.

THE CHAIRMAN: You say the total cost of the movement of the traffic?

MR. EVANS: Yes, sir.

THE CHAIRMAN: And you do not include in that your revenue necessities for all purposes?

MR. EVANS: Yes, sir, that was the subject of my argument with Mr. Brown, as you may recall. He thought that the total costs should represent nothing beyond operating costs. I took a

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position that the total overall costs included servicing the capital and providing the surplus. Now then, the sum total of all the rates on all the traffic must be returned. That puts the upper limit to the whole level of rates.

Individual rates are not considered at that stage because individual rates are not intended to be limited by the upper level of the total cost applicable to that traffic, because that obviously is an impossible task to do, but we say, that the total cost must be met by the total traffic; that is, the upper limit of rates as a level.

With regard to individual commodities, however, the lower limit is fixed by the necessity for meeting at least out-of-pocket costs. Is that clear?

THE CHAIRMAN: Then the rates you actually do set are the value of service?

MR. EVANS: Yes, because each, as we say, contributes according to what it can bear within those limits.

COMMISSIONER ANGUS: Mr. Evans, when you say the total costs must be met by the earnings, are you thinking of that as happening in each year or are you thinking of the railway industry as a fluctuating one that will have relatively fat and relatively lean years?

MR. EVANS: I think I am. One cannot be mathematically certain that in each year exactly the full cost is returned, but the aim is, that that should be so. In the lean years, of course, we

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know that is not so, becauseeven if you do increase rates, you cannot recover more revenue, so that you do have fluctuations in lean and so-called fat years. You are handling less than your overall costs from the total traffic, and in good years, you are getting more - no doubt about that, but we do find, if I may say so, that when you find you are getting too much, there is very fast action to get them down again. When you find you are getting too little, nobody but the railway will complain, and in the depression period, of course, you may not be able to maintain the traffic at the higher rates. That is very clearly exemplified, if I may say so, in two cases in the depression years in the United States. I think it was Ex Parte 103, am I right, in 1931?

THE WITNESS: I think 103 was in 1931.
THE CHAIRMAN: In the year 1931?

MR. EVANS: In 1931. I think the Commission has references to these decisions. They have been discussed, but there is an aspect of this question of Dr. Angus' which I think is important. In this Case, which was brought in 1931, the railways asked for a percentage increase and the Commission said:—"We are not satisfied that if you got a general increase in these conditions with falling prices and the depressed condition of industry, that the increases will be effective to give you the revenue you want" and the result was that they refused to give any general increase, and after all sorts of re-hearings they came out with some specified

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increases in certain commodities, and that again was repeated in 1935.

In 1935, they had a similar position taken, but in 1935, after two or three years of re-hearings, they had this general increase in commodities plan for increasing rates, but those factors that I spoke of to Dr. Angus were very important factors in the Interstate Commerce Commission's decision at that time. They said: "In these times we: have no guarantee that if you increase rates you will increase revenue". They recognized what the railways now mention, but they said "We doubt whether you can achieve it, and therefore we are not going to increase rates generally in those conditions".

COMMISSIONER ANGUS: Does that make sense if one is speaking of maximum rates? If the maximum rates were increased, could the railways be relied upon not to put the actual rates above the point of maximum revenue?

MR. EVANS: I do not think that that has ever been the consideration in fixing maximum rates, because maximum rates are fixed in relation to a lot of different commodities, and a lot of different classes, and I think it would be mathematically impossible to assure that those maximum rates would produce the desired amount of revenue. I think the practical viewpoint is this: they know that a very small amount of the traffic aetually moves on maximum rates, and the test applied is always "What is the current yield in net revenue?" And when they see that, up or down, they say as a rule : :: .

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"The usual level of rates should be up or down" but the desired end is never mathematically achieved and cannot possibly be achieved because either you must try and fix it in relation to the past, in which case you cannot say you are going to have a result in the future, or you must try and forecast the future, in which case you cannot possibly be accurate.

COMMISSIONER ANGUS: I can understand that, Mr. Evans, but if the argument of the Interstate Commerce Commission is, that it is futile to raise rates because higher rates would not produce more net revenue but less net revenue, isn't that something that could be left to the judgment of the railways, the self-interest of the railways?

MR. EVANS: I think the American railways would say so. I think they probably felt very badly about the judgment. I think they must be left - I would certainly argue that they should be left to exercise their judgment within the limits that provide, as you call, the maximum rates.

COMMISSIONER ANGUS: When someone says to you:- "I am going to protect you against the consequences of your own folly", don't you rather suspect the sincerity of the reason?

MR. EVANS: I do. That is a point that has been raised here by our provincial friends. They have said:- 'We think you are going to dry your traffic up. We think you won't get this

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revenue": I must say I was a little suspicious of the motive, but I am just putting to you what the Interstate Commerce Commission did in those cases and I think the American railroads were quite disappointed. They went back and back for re-hearings on this case, and they came out with the result I mentioned.

COMMISSIONER ANGUS: I must say I find very great difficulty in applying in my own mind this theory of rate-making in terms of time, in terms of moving and changing conditions, and it seems that the Judgments that have been cited do not deal specifically with that point?

MR. EVANS: Well, I think you will find that in a number of United States Decisions by the Interstate Commerce Commission, that the Commission has attempted to reconstruct or to construct what they have called a reconstructive order, and they try and visualize what is likely to happen, and they did that in the last two cases. We, of course, in our case, in the 20 Percent Case forecast 1949 and in the 21 Percent Case forecast 1947. Well, in neither case were our forecasts accurate. I think it is mathematically impossible to ensure that you are going to get exactly the result that a mathematical formula might produce.

COMMISSIONER ANGUS: Was the percentage increase for which the railways applied, calculated by them to give a fat year, an average year or a lean year?

MR EVANS: I think this is extremely interesting, because it does point up a great deal of the difficulty. In the 30% Case we forecast X dollars in revenue for 1947, and we said that a 30% increase in revenue on that forecast would give us less than the fifty-two or fifty-three million dollars which we said were our requirements. Now, at that time it looked as though 30 per cent would be short of giving us our requirements, but we went on that basis. Now, when 1947 was actually experienced and before the Board's judgment came out -- because the hearings took the whole year; they did not give the judgment until 1948 -- the actual results for 1947 were known. Well, the Board, with some adjustments in expenses, disallowance of depreciation and deferred maintenance and so on, found that they could give us our requirements with a 21 per cent increase, and they did so.

Now, in the 20% Case we went for 20 per cent based on the same formula as had been adopted in the 21% Case -- that is, the formula as regards the requirements -- and we forecast 1949 results, and the actual year 1949 proved to have been over-estimated, whereas in the previous case we had under-estimated 1947. Now, as was shown to the Board -- and I am not going to get into anything controversial here -- the actual results were so much worse that the old formula would have given us very much more than we actually turned out to be asking for. But there is no mathematical precision anywhere.

COMMISSIONER ANGUS: No, but does that mean that the forecasts are made in respect of one year which is chronologically the next year, or are they made in respect of a series of years, treating the one year, as it may be, as fat, average or lean?

MR EVANS: No; we have never asked, as we might

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very well have asked, for more on the ground that we were undergoing a period of relative prosperity in terms of a large volume of traffic; we have never gone on that basis. We have had difficulties enough without getting into an attempt to do that.

COMMISSIONER ANGUS: Have you ever had an award on that basis?

MR EVANS: Not to my knowledge, no.

COMMISSIONER ANGUS: And if you do not, is the alternative adjusting the level, the general level, of rates from year to year as you might adjust the mill-rate of a municipality?

MR EVANS: Well, that brings up two things. One thing would be that we said to the Board, "Don't whittle away the last collar here and there, because if there ever was a time when we should be earning a full level of earnings this is it, when we have got a large volume of traffic." And the other thing would be that when we do go back at the request of somebody else, because somebody thinks we are getting more money, I would again say to the Board, "Don't whittle us too closely. If our traffic volume is high, don't cut us to the last thousand dollars or the last hundred thousand dollars, merely to get a fractional decrease in rates. Take into account the fact that traffic volume is high, and that we may not always have that traffic volume." But we never have gone further than that.

COMMISSIONER ANGUS: Do you think that the question that we have just been discussing is a point on which guidance should be offered to the Board?

MR EVANS: Well, I am not asking this Commission to do it, because I do not conceive of the Commission's function as embracing anything but recommendations to the

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Governor in Council as to what legislation should be adopted. I would think that it would be difficult to put that into legislation. I would certainly think that the Board could take that into account, and I thoroughly agree with you that that is a very fundamental question, because if we go through a period of depression we never will recover our full costs, and if we go through periods of high times there ought to be no whittling in those times.

THE CHAIRMAN: Mr. Evans, can you give me a further reference to that Ex Parte 103?

MR EVANS: Yes; Ex Parte 103.

THE CHAIRMAN: 1931, you said?

MR EVANS: Yes; it is in 178 Interstate Commerce Reports 539, and I am not sure whether there is not another decision -- yes, there was also a decision on a review of that case, in 191 Interstate Commerce Reports 361. Then Ex Parte 115, the first decision is in---

THE CHAIRMAN: What year is that?

 $$\operatorname{MR}$$ EVANS: That is in 1935 the application was made, in the first decision. 208 I.C.C. at page 4.

 $$\operatorname{MR}$$ SMITH: My lord, in my cross-examination I gave the Commission all these cases.

THE CHAIRMAN: Well, I would like to have them noted here anyway.

MR EVANS: 215 Interstate Commerce Reports 439.

THE CHAIRMAN: Is that another case?

MR EVANS: That is the same case.

THE CHAIRMAN: You have just given me Ex Parte 115, which is reported in 208.

MR EVANS: Yes; that is the first decision, and then there was another decision in the same case at 215 I.C.C. 439. My recollection is that by 1937 there was still a further decision; I haven't a note of it.

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THE WITNESS: Here it is.

MR EVANS: Q. Have you got the reference?

A. Yes, sir.

MR EVANS: This same case was reopened on two other occasions: 223 Interstate Commerce Reports 657, and 229 Interstate Commerce Reports 435. That last decision made increases in certain basic commodities, did not give a general increase, and has come to be known as the general commodities increase case, as I recall it.

witnesses who will put forward the interest of the railroad in the development of traffic? In the whole discussion we are so much concerned with the business of establishing rates and the fairness of rates, and we get so little evidence on the machinery or the means by which the railways build up traffic. It is all concerned with this sort of business of plucking the goose with the least squawking, and it is very difficult to get any sort of constructive---

MR EVANS: You and I might use different terminology, Dr. Innis. As a matter of fact, that perhaps is, with respect, not the correct way to describe what goes on. It is an essentially trading thing. I find the best answer to that in Dr. Locklin's book, because he clarifies my thinking at least on that subject of how the value-of-service principle operates; but it is obviously a trading proposition. Railway companies have railway services to sell, and they sell them, having regard to defined principles and subject to regulation by the Board, at what they feel will develop traffic, because it is in their interest to develop traffic.

COMMISSIONER INNIS: Well, that is quite true, but you read the textbooks and you listen to the discussion and the evidence, and there is very little on this whole question

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of developmental rates or the development of traffic concerned with industry, and so on. It is all a matter of---

MR EVANS: Mr. Jefferson is the head of the department whose duty it is to develop traffic for the railway, and he has the---

COMMISSIONER INNIS: He can tell us, then.

MR EVANS: Yes.

MR BRAZIER: Q. I think we are satisfied now,
Mr. Jefferson, that this upper limit is a somewhat nebulous
thing; would you agree with that?

- A. Well, in what sense?
 - Q. That it cannot be accurately defined at all?
- A. Oh, no. I mean, you cannot accurately estimate what your traffic is going to be. I have had some experience in that.
- Q. When we come to the lower limit, would you agree that we should be able to arrive at a greater degree of accuracy?
- A. A greater degree of accuracy? You mean in volume of traffic?
- Q. No; in the lower limit of your rate, that is, in your out-of-pocket costs?
- A. We try to exercise judgment in making rates with respect to the lower limit.
- Q. And there is no doubt that you take that into consideration in fixing your rates?
 - A. Yes, sir.
 - Q. How do you determine those costs, Mr. Jefferson?
 - A. Well, I do not determine the costs.
 - Q. Pardon?
 - A. I do not determine the costs.
 - Q. You make the rates for the railway?
 - A. Yes, sir.

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- Q. And if you do not determine costs how can you tell whether or not they are within the lower limit?
 - A. I go on yield.
 - Q. You go on year?
 - A. On yield.
 - Q. On yield?
 - A. On yield.
 - Q. That is, on your earnings?
 - A. Yes, sir.
- Q. You would agree with me, Mr. Jefferson, I presume, that costs and earnings are quite different things?
- A. Costs and earnings or costs and yields are two different things, yes.
- Q. In view of that, wouldn't you have to correct your definition of the value-of-service principle as applied by the Canadian Pacific Railway?
 - A. I do not know why.
- Q. Well, you have just told me that you do not calculate costs?
- A. Yes, sir. I cannot calculate costs. I do not know that anyone can calculate costs when you are making a freight rate between two points on any railroad.
 - Q. But you say that a rate must be compensatory?
 - A. Yes, sir.
- Q. And it is only compensatory if it covers your out-of-pocket costs?
 - A. That is right.
- Q. And now you say you do not calculate your out-of-pocket costs, and you go even further and say you cannot; is that correct?
 - A. Yes, sir; I do not think that is---
- Q. Therefore I suggest to you that you have no measure to determine whether or not you are getting your

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out-of-pocket costs?

MR EVANS: My friend should not make that statement, because it is set out clearly on page 62, in the middle paragraph, and it says exactly what we do.

MR BRAZIER: We will come to that.

THE CHAIRMAN: Yes, but for the present we are interested in hearing what Mr. Jefferson says he does.

MR EVANS: Well, he does not do these studies.

THE CHAIRMAN: Well, but what does he do? If you ask about something that is not within his knowledge, of course, that is another thing.

MR BRAZIER: We have established that Mr. Jefferson makes the rates, Mr. Evans, and I was trying to find out from him how he makes them.

THE CHAIRMAN: Well, so long as Mr. Jefferson undertakes to answer, we will hear him. What is your question?

MR BRAZIER: Q. I am suggesting to you, Mr. Jefferson, that you do not know what your out-of-pocket costs
are on any particular traffic, that you do not bother to
find it out; as a matter of fact, you feel that you could
not determine it?

- A. It is not a question of not bothering, but I say you cannot determine it on---
 - Q. You cannot determine it?
 - A. No.
- Q. Therefore I am suggesting to you, Mr. Jefferson, that you must change that first paragraph on 62, where you say, "the additional costs incurred by the railway in handling any particular traffic". It does not even refer to traffic as a whole, it refers to particular traffic.
- A. Well, I don't know. I am not gongoing to argue with you about the language of our submission. All I am

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saying is that if you came in to me and said you had a volume of traffic to move from point A to point B, whether it was a hundred miles or five hundred miles or a thousand miles or two thousand miles, I would find out from you what you were going to ship, what our present rate was, what rate you said you needed, what the commercial conditions were, which I would develop from you or in my own way, and I would see if this was .going to be new traffic, if I could afford to handle the traffic at the rate which you suggested. Then I would see if that would have a bearing on freight rates on the same or similar commodities which might be moving at a higher level of rates. All things of that kind would be required to be taken into account in making a decision. Now, if the rate you needed was not going to disturb any other rate, was going to develop some traffic for the railway, and I could determine what the yield would be from that traffic by the tests which I have explained we make, I might give you the rate that you ask for, or we might agree on something a little bit higher.

- Q. In your explanation, Mr. Jefferson, you said you would consider whether you could afford to give the rate?
 - A. Yes, sir.
- Q. That means that you are going to make some sort of profit on it, I presume, does it?
 - A. I would hope so.
- Q. Well, I cannot conceive how you can determine that unless you know what it is going to cost you to give that service?
- A. I cannot determine the cost, but I can determine the yield, and I can measure that yield from the rate you say you need, with the loading, how heavy you would

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load your cars, and many other things, and if it was above our statistical averages, why, I would know I was not making a mistake. If it was below our statistical averages, it would be a question of how much below it would be. I gave all that in my direct evidence.

- Q. Would you say, then, if it is below the statistical average you are carrying it at a loss?
- A. No, sir, because some traffic has got to be below the statistical average to make an average. It cannot all be above.
- Q. Well, would you tell me, then, in your own mind how do you get the point where you determine that you are going to carry it at a loss rather than at a profit?

(Page 16223 follows)

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A. I can only determine that by using statistical averages. We will just take one factor. You have got to get a reasonable distance, and we will say it is 1000 miles, if you like. If the car mile earnings are above average I am all right; if they are below average but only a little below it is all right, but if it is too far below the average then I have some doubt in my mind whether or not I want to do it, and I might say I would not do it or I might give it some further study.

THE CHAIRMAN: Mr. Brazier, you are on that first paragraph. I notice that the second sentence of that paragraph explains what is meant by a rate being compensatory. It says, "If it returns something more than the out-of-pocket costs", and then it goes on to say, "which are" -- that is, the out-of-pocket costs --"the additional costs incurred by the railway in handling any particular traffic."

MR. BRAZIER: That is what I am trying to do.

THE CHAIRMAN: Q. Mr. Jefferson, is there any way whereby you can arrive at an estimate of the additional costs in the case where somebody comes to you to offer you traffic?

- A. The only way I could determine additional costs --
- Q. Additional costs?
- A. Additional costs, yes, sir, would be to ask our research department for a special report on that particular movement.
 - Q. You would do that, would you?
 - A. Yes, sir.
 - You do that in practice?
- A. We do it, but not every time. If we are in doubt as to what we should do we have a further study made by the research department.

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- Q. Then if the research department says to you that the taking on of this new traffic will cost you so much additional to what you are spending now, then to be a compensatory rate it must be something more than that?
 - A. Yes, sir.
 - Q. That is the whole thing, is it not?
 - A. If the research department --
- Q. I am only talking about this one paragraph. I do not say that paragraph is a proper definition or expression of the whole thing, but I am taking the language as it is, and it says:

"Under the 'value of service' consideration
must be given to the compensatory nature of the
rate. A rate is compensatory if it returns
something more than the out-of-pocket costs,
which are the additional costs incurred by the
railway in handling any particular traffic."

I think that is important to bear in mind and to explain.

- A. I do not know that I can --
- Q. I am not criticizing anything. I am trying to make it clear what your brief says. In that case you would not have to go into examining all of your costs; by this definition you would just have to examine what additional costs you are going to incur if you take on this traffic?
 - A. Yes, sir.
- Q. And that is what they call here -- I don't know why -- out-of-pocket costs, and then you add to that something in order to make it compensatory?
 - A. That is right, but I could give you an example.
- Q. Then you say if you yourself cannot determine just what this additional cost is going to mean you get

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your information from those who study that?

A. That is right.

MR. BRAZIER: Q. I understood you to say you could not find out just what these additional costs were as far as you are concerned?

- A. Not as far as I am personally concerned, no, sir.
- Q. That you cannot do it?
- A. No, sir.
- Q. And that you do not attempt to do it?
- A. I do not attempt to do it, but I will give you an example in practice. We were asked not long ago to make rates on a certain commodity in Western Canada from western Saskatchewan and Alberta to northwestern Ontario points.
 - Q. What would the commodity be?
 - A. It would be fuel oil.

 THE CHAIRMAN:Q Crude oil?
- A. Fuel oil. The returns were that the yield per car mile was extremely low. I asked our research department for a report. They prepared a report for me, and after I received it I decided that I would not and I could not make the rate which the industry said it needed to market its product.

MR. EVANS: Q. Mr. Jefferson, would you give another example of the agreed charge on oil in Ontario, for example? Do you remember that?

- A. The agreed charge on oil?
- Q. Yes.
- A. You mean recently or when we first put it in?
- Q. When we first put it in.
- A. When we first put in the agreed charge on petroleum products in Ontario we got a report from our accounting people to determine if they considered we could make money at the rates which we had to make to

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meet the competition, but we also made a study to examine the figures which the oil companies gave us of what their costs were for transporting the oil in their own trucks. In other words, we measured it in two ways. First we examined the information they gave us as to their costs, and secondly, if we made rates that would be reasonably fair in relation to their costs could we make money.

THE CHAIRMAN: Q. That is, could you compete without losing money?

Α. Yes.

COMMISSIONER INNIS: Q. Would your research department consider giving a very low rate in order to get an industry started in the hope it could raise its rates once the traffic began to pick up from that industry?

- A. Oh, no, the research department would give us a report on the actual facts. They would not take into consideration whether --
 - Q. Would you take that into consideration?
 - Α. I would after I received their report.
 - After their report? Q.
 - Α. Yes, sir.
 - Do you do that very often? Q.
- Yes, sir, but I would hesitate to make a rate that did not yield us some return unless I was assured, and very reasonably assured, that the industry within twelve months would be able to pay a higher rate that would yield us a fair return.
 - You would cut it down to as short a time as that? Q. .
 - Oh, I think you would have to.
- Suppose you had an industry which would grow over three years and it might be reasonable from the standpoint of the long run position of the road?
 - A. No, sir, we do not make rates that way.

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THE CHAIRMAN: Q. Do I understand you to say that you might in some cases, having regard to a new industry, give it a rate which was not compensatory for a period of time in the expectation that it would grow and cease to be an infant industry, and then it would pay a higher rate?

- A. I have never done it, no, sir.
- Q. You have never done it?
- A. No, sir. The great difficulty --
- Q. Can we say this, that every rate that you set must be compensatory from the outset?
 - A. As far as I can determine it, yes, sir.
 - Q. As far as you can make it compensatory?
 - A. Yes, sir.

COMMISSIONER INNIS: 4. You would not consider compensatoriness extending over a period of a year?

- A. No, sir. I will answer you this way, that if a rate might not be as compensatory as I would like it, we will say, but still something that, to the best of my ability to determine, was above out-of-pocket costs, and as long as we were going to make something, I might be satisfied with that rate for a year or two and get something higher later on, but the difficulty in doing business that way is that once the railway puts in a rate to help an industry in that way, and to expire in a year or two years, then the industry is always after you to extend it, and you never can get it up. That is the trouble.
- Q. Yes, I can understand that, but it seems to me this is a very important question.
 - A. Yes, sir.
- Q. And it points rather to the interest of the railway in immediate revenue rather than terms of long run

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traffic development?

A. Yes, sir, but I mean to say that I do not think the railways can make rates that way, and not feel satisfied they are going to make some return when they make the rate.

COMMISSIONER ANGUS: Q. Are you a little afraid that the Board might not let you reap where you have sown?

- They might not. Then again if we make a rate Α. and it expires the industry might take us to the Board --
- Q. I do not mean a particular industry. I mean if your general level of return was rigidly controlled. If you gave developmental rates in view of later traffic you might never be able to raise that traffic to the general level.
- They might say you threw away too much money here and we are not going to give it to you somewhere else. They might think you were a little too generous in some quarters.

MR. BRAZIER: Q. You have mentioned one or two studies you have had your research department make?

- Α. Yes, sir
- Is that a frequent occurrence? How often would that be done?

THE CHAIRMAN: Is that what?

MR. BRAZIER: Q. A frequent occurrence?

- Well, it all depends what you mean by "frequent." If you mean by percentage of number of rates we make it is very infrequent.
- How many studies would be done in a period of Q. . a year? Would there be hundreds of studies or one or two?
- There would not be any hundreds but there might A . be a dozen or two dozen, something like that, but my golly if you made a hundred studies you would have to have a

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staff that would be so --

- Q. Costly that freight rates would have to go up, I suppose?
 - A. Go up to meet the expense.
 - About a dozen would be made in a year?
- Offhand I will say we have asked for a dozen within the last year.
- And they would relate to particular traffic of which you expected a considerable amount?
- A. Yes, sir. Now, we had one the other day -within the last two months, I should say -- respecting an agreed charge. I will give you the example of salt from Windsor to Beauharnois, Quebec, I think it was. We wanted to know before we could get that agreed charge approved if we were going to get a reasonable return out of that rate to justify the making of the agreed charge to meet the competition with which we had to contend. We got a report from them.
- Q. Do these studies relate principally to agreed charges?
 - A. Oh, no, not necessarily.
- Have you had many made in regard to ordinary or let us say truck competitive rates?
- Well, no; I mean to say when you take truck competitive rates that is like an agreed charge, but I have one under way now that the research department are doing for me with respect to the movement of certain traffic, and I do not want to tell you what the traffic is or where it is from or to. The question is whether that traffic is going to continue to move where it is moving to-day or will it be developed somewhere else where there will be a shorter haul and less revenue. The point is are we prepared or are we not prepared to reduce

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the rate for the longer distance the traffic is moving to-day and keep it moving in the longer distance.

- Q. You consider studies like that confidential?
- A. Yes, sir.
- Q. I was wondering if you have any studies that have been made in the last year or even earlier than that which you would not consider confidential and which you would be willing to produce to the Commission?
- A. Oh, I don't know. We might be willing to produce it to the Commission, but I don't know that we would want to produce it for all the counsel in this room.
- Q. You have not any that have lost their characteristics of confidence by now?

MR. EVANS: We have the Crows Nest Pass study.

MR. BRAZIER: Q. I am interested in knowing how these studies are made when they are made, $M_{
m T}.$ Jefferson.

- A. I am not going to suggest that we make the studies public.
- Q. I should like to refer you now to the evidence you gave at page 13916 where you gave your tests. That is in volume 67.
 - A. What page?
 - Q. 13916, where you set out your tests.
 - A. Yes, sir.
- Q. You enumerate there the factors which you take into consideration yourself, first, revenue per ton mile; second, revenue per car mile; thirdly, length of haul; fourthly, average loading per car; fifthly, revenue per car; sixthly, the direction of the flow of traffic; seventh, the density of the traffic on the line over which the traffic has to move. Are you satisfied those are all the tests which you apply?
 - A. I am, yes, sir.

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2. In the first place, Mr. Jefferson, I should like to suggest to you that none of the factors mentioned there are cost factors in themselves?

THE CHAIRMAN: None of them are what?

MR. BRAZIER: Q. None of them are cost factors?

- A. That is right.
- Q. They relate to revenue?
- A. Yes, sir, yields, yes, sir.
- I think you have already agreed that costs and revenue are different things?
- That is right, but you have to get a yield to meet your costs.
- Mr. Frawley did question you in regard to one of the factors, namely, the direction of the flow of traffic?
 - A. Yes, sir.
- I should like to discuss that with you, Mr. Jefferson, and have you tell me again -- you may have already explained it -- how that factor is taken into consideration.

THE CHAIRMAN: What factor?

MR. BRAZIER: The direction of the flow of traffic.

THE WITNESS: Well, the direction of the flow of traffic and the density of traffic are pretty common factors.

MR. BRAZIER: Q. Deal with them both together if you like.

- I will have to illustrate by taking examples perhaps in your own territory, not that you are not familiar with all of Canada, but I would like to keep it at home with you.
 - Q. All right.

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- A. If you require a rate from some point in British Columbia to some point on the prairies or eastern Canada and you want a low rate we want to know whether we are going to haul all the cars back empty or not or whether we are going to get a load both ways. Also in the flow of traffic are you going to have deadhead power in one direction because of the bigger volume of traffic eastbound or westbound, northbound or southbound, wherever you are making your rate.
- Q. Let us consider the case where the traffic is established in one direction and you are met with the problem of returning your cars empty.
 - A. Yes, sir.
- Q. You are in a position where you have no competition.
 - A. Yes, sir.
- Q. And traffic develops at point B; you will be anxious to get something in your cars --
 - A. To go back to A, yes, sir.
- Q. That being the situation would you give a lower rate than normally from B to A?
- A. I would be inclined to if it would develop traffic for the railroad and there were good commercial or competitive reasons for doing so.

(Page 16233 follows)

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- Q. Well, I want you to eliminate competition now -if you have got no competition?
- Well, it all depends what kind of competition you are referring to, whether carrier competition or market competition. It could be market competition and not carrier competition.
 - Well, let us eliminate all forms of competition? Q.
 - A. Well, if you eliminate all forms of competition --
 - Q. You would take your full rate?
- A. There would not be any commercial or competitive necessity for it.
 - You would take your full rate? Q. .
 - Α. Yes, sir.
- And the direction and flow of traffic would not affect you?
 - There has got to be a reason for doing things.
- Q. Now, I want to refer you, Mr. Jefferson, to page 98 of Part II, still dealing with this question of out-ofpocket costs. You will notice in the second last paragraph you are speaking here of the fixing of minimum rates. The second sentence in that paragraph reads --I will read the whole paragraph:

"Any attempt to fix minimum rates would presumably have to take into account and perhaps even be based on out-of-pocket costs."

THE CHAIRMAN: Where is that?

MR. BRAZIER: On page 98, my lord, the second last paragraph:

"Such out-of-pocket costs would be difficult to determine, would vary as between regions and as between different types of traffic. Moreover out-of-pocket costs vary from year to year not only because of changes in unit costs of

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operation but also because of variations in traffic volume and in the flow of traffic." Now, in that paragraph are you speaking again of costs as costs or as something else?

A. Well, we are speaking of costs as costs but in the practice of applying it, I would convert it to yields. As I say, I cannot determine the costs.

THE CHAIRMAN: Pardon me. This expression "to fix minimum rates" leaving out the rest of the paragraph, does this mean minimum rates for the whole country? It is not any particular region or regions?

MR. BRAZIER: No, it has been suggested that a floor be placed under rates under which it would not be practicable for the railways to go.

Q. And the floor would be placed by the Board? MR. BRAZIER: Yes.

THE CHAIRMAN: In addition to fixing the ceiling they would fix the floor?

MR. BRAZIER: That is right.

THE WITNESS: I do not know how you would determine the floor. It would vary for all traffic and movements and everything else.

MR. BRAZIER: Q. Are you talking about costs as costs in that paragraph or not?

- I assume so. I don't know, but I say this that again we would not make rates that wefelt would not produce out-of-pocket costs.
 - Which you do not know?
- A. Which I do not know except by applying the tests which I have described.
 - Q. Certain revenue tests?
 - A. Yes, sir.
 - Q. Now, Mr. Jefferson, I would like to turn to the

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tables in the Appendix of your Brief, pages 56 to 61? A. Yes, sir.

THE CHAIRMAN: Well, we will come back in a few minutes.

---Recess.

MR. BRAZIER: I was just going to refer you, Mr. Jefferson, to the tables on pages 56 to 61. Page 56 is entitled "Statement of motor truck and/or water competitive rates and earnings for representative movements," and in here you give the earnings per car mile, per car per mile and per ton per mile. Is that correct?

- A. Yes, sir.
- Q. And those are three of the yardsticks which you use in determining the compensatory nature of rates, is that correct?
- A. Yes, sir, together with the average loading per car.
 - Q. I am just saying they are three?
 - A. Yes, sir.
- Now, I suggest to you that the revenue per car on the domestic competitive rates in eastern Canada vary from a high of \$550.80?
- A. On all these pages? THE CHAIRMAN: Where is that, Mr. Brazier? MR. BRAZIER: Page 58. The table goes for four pages.

THE CHAIRMAN: Now what were the figures? MR. BRAZIER: For item No. 2440 which is the eighth one down from the top under "Earnings per car" --

THE CHAIRMAN: Ale, beer and porter?

MR. BRAZIER: It is sugar from Saint John.

THE WITNESS: Seven down, Mr. Brazier.

MR. BRAZIER: Sugar from Saint John to Hamilton,

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Ontario, is the high in all those columns, I think, \$550.80.

THE CHAIRMAN: Per car?

MR. BRAZIER: Per car, yes, sir, to a low on the previous page, item 246 which is seventh from the bottom, of \$50.30.

THE CHAIRMAN: It is sand from Paris to Toronto? MR. BRAZIER: Yes, sand, Paris to Toronto. Now, that is a very low cost for a loading as heavy as in the previous one, isn't it?

THE WITNESS: Yes, sir.

MR. BRAZIER: Q. Now, going to the "per car per mile" which is the next column over. It varies from 222.5, which is item 1160 on page 58, which is the second one from the bottom --

THE CHAIRMAN: Item 1160?

MR. BRAZIER: 1160, second from the bottom, steel bars, Hamilton, Ontario, to Chatham, Ontario, 222.5 cents to a low on page 56, the first one, automobiles Windsor, Ontario, to Montreal, 22.2 cents. Do you see that last one, Mr. Jefferson?

THE WITNESS: Yes, sir.

MR. BRAZIER: Q. Then, going to the third column, the "per ton per mile" goes from a high of 9.09 cents on page 57, which is item 2210. It is the one just above sand, the eighth item up of 9.09 cents on refrigerators from Peterborough to Toronto to a low on page 56, the second item, .71 cents per ton per mile on billets, blooms, etc., Hamilton, Ontario, to Montreal.

THE CHAIRMAN: "Billets and blooms" -- are they steel?

MR. BRAZIER: Q. I presume that is steel products, Mr. Jefferson?

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- A. Yes, sir.
- Q. Now, I suggest to you, Mr. Jefferson, that without going through the Eastern Canada export rates which are on page 60 and the import rates which are on the same page, page 60, and the Western Canada rates, domestic rates -- we might just look at the Western Canada domestic rates. You have there a high of \$326.47 per car on canned goods, Kelowna to Vancouver, to a low of \$19.80, which is the next item, meats cured, Sapperton, B.C., to Vancouver. In the next column there is a high of 132.2 which is on petroleum, oil residuum, Brandon to Winnipeg.

THE CHAIRMAN: That is per car mile?

MR. BRAZIER: That is per car mile, yes, sir.

- Q. That is the high one in that column and the low is 30.9, the one just above. Is that meant for mine props?
 - A. Mine props, yes, sir.
- Q. It is not quite clear on my copy -- Rocky
 Mountain House to Rosedale. In the next column the high
 is 6.06, the second last item.
 - A. There is a higher one above that, if you want it.
 - Q. Yes, cured meats again.

THE CHAIRMAN: What page again?

MR. BRAZIER: Same page, page 61. The same item again, the cured meats.

THE CHAIRMAN: Which column?

MR. BRAZIER: The third column, my lord, "per ton per mile" -- 6.25 to a low of 1.16 which again is the mine props.

Q. Now, I suggest to you, Mr. Jefferson, that there is a variation there up to as much as ten to one in those comparative figures?

(Page 16241 follows)

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- A. That may be, but I do not know what good the variation is unless you take each one by itself.
- Q. What I am going to suggest to you is that you cannot possibly arrive at any idea of what your costs are by taking an average of figures that vary in earnings as much as those do; would you agree with that?
- A. We test them individually. When we are making competitive rates, as these pages 56 to 61 show, we do not take them collectively. Every time we are making a rate on one of these commodities we analyze it by itself.
- Q. But you always bring it back to the system average, don't you?
 - A. Yes -- test it with the system average.
 - Q. Test it by the system average?
 - A. Yes, sir.
- Q. Well, I am suggesting that the test which you apply, because of the very wide variation in earnings, is no test at all of your costs?
- A. No, but I do not know what you would accomplish by a test of costs where your yield is away above your averages. These pages you are talking of is not the traffic of the Canadian Pacific Railway; it is the exhibit showing the earnings per car, per car per mile and per ton per mile for the competitive rates which the railways have found it necessary to make to meet competition.
- Q. What I am trying to do, Mr. Jefferson, is to test to see whether you can show me how you can determine that any individual rate, tested on the system average, is compensatory or not, when you have such a wide variation in some of the tests which you apply?
- A. Well, if they are all above the system average there is no doubt about it.
 - Q. Yes, but don't those figures suggest to you that

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a great many are below?

- A. Very few; and if they are, they are not appreciably below, and, as I have said many times, it takes some below and some above to determine an average.
- Q. I suggest to you that the second item there, billets and blooms, shows earnings per car \$155, per car per mile 40.5ϕ , per ton per mile $.71\phi$?
 - A. Yes, sir.
- Q. That is very substantially below your system average?
 - A. Not per car per mile, no; it is above.
 - Q. What is your per car per mile?
- A. In Eastern Canada my recollection is it was -- yes, 36.3¢ for all traffic in 1948.
 - Q. And your per ton per mile?
 - A. The eastern lines per ton-mile?
 - Q. Yes.
 - . It is more than that; I think it was 1.27¢.
- Q. Anyway, on a per ton per mile basis that is substantially below?
 - A. Per ton per mile, yes, sir.
- Q. Now, having determined that under one of your tests that is substantially below, would you have a study made to see whether or not that is a compensatory rate?
- A. No, sir, because my yield per car per mile is above the system average, and I had to make a competitive rate to meet the water competition.
- Q. Do I presume, then, that if the particular rate worked out on an average on any one of these bases is above the system average, you are satisfied that it is a compensatory rate?
- A. If there is a necessity for the rate, yes, but we do not do it just because it is above. There has got to

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be a necessity for it.

- Q. Would that apply to the ---
- A. That would apply to all competitive rates.
- Q. All the rates in those tables?
- A. Yes, sir.
- Q. Now, Mr. Jefferson, would you turn to page 151 in Part I, at the bottom of that page, under the heading of "Further Submissions".
 - A. 151?
 - Q. Yes; "Further Submissions" -- you see that?
 - A. Yes, sir.
 - Q. It reads:

"The Railway Act requires that freight rates be just and reasonable and this means not only that they be just and reasonable to shippers as a whole, but also to all groups of shippers as well as to the railways."

- A. Yes, sir.
- Q. Now, we have heard that the railways consider the rates as being just and reasonable to the railways, provided it returns you your over-all requirements?
 - A. Yes, sir.
 - Q. Is that correct?
 - A. Yes, sir.
- Q. And you are satisfied, I presume from that statement, that in judging rates from a shipper's point of view, as to whether a rate to the shipper is a just and reasonable one, you do not---

THE CHAIRMAN: Pardon me a moment. I have a note I made the other day, and I omitted to put the date down. The note was to the effect that Mr. Evans was to give us some instances.

MR EVANS: I am still trying to find time to get

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the cases read. I have them on my table at the hotel, and some of them have been read. But I can tell you that you are not going to get very much more out of it than I gave you orally, because, as I say, there is no precise test. The Board issued a judgment this week on a matter in which they said in just so many words that there is no precise test as to what a just and reasonable rate is.

THE CHAIRMAN: Perhaps, Mr. Covert, you might get a copy of that. This week, you say?

MR EVANS: I will get it just as soon as I can, sir.

MR BRAZIER: Q. In your evidence, Mr. Jefferson, on the same point, in volume 67, at page 13908, reading at the bottom:

"In order for rates to be just and reasonable to the railways the revenue derived from the mass of rates for the movement of all the traffic must be sufficient to pay operating expenses and taxes and to provide a reasonable return on the capital invested in the railway enterprise."

So there is no doubt that as far as judging the reasonableness of rates from the railway"s point of view, we have a standard which we can apply; is that correct?

- A. A standard, yes.
- Q. From the railway's point of view?
- A. Yes.
- Q. Now, I want to ask you whether you think or know if there is any similar standard that a shipper can apply in determining---

THE CHAIRMAN: Pardon me a moment. My attention was directed elsewhere. I would like to hear again what that standard was.

MR BRAZIER: The standard being as set forth, I

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suggest, on page 13908, my lord:

"In order for rates to be just and reasonable to the railways the revenue derived from the mass of rates for the movement of all the traffic must be sufficient to pay operating expenses and taxes and to provide a reasonable return on the capital invested in the railway enterprise."

THE CHAIRMAN: What date was that? February 20th?

MR BRAZIER: That is on December 15th, when Mr.

Jefferson was first giving evidence; it is in volume 67.

- Q. So I suggest, Mr. Jefferson, we have a standard from the railway's point of view?
- A. We have a standard in the sense that we have all of our published tariffs. It is the responsibility of the railways to make freight rates. If the public do not think they are fair and reasonable they can make an application to the railways for a change in the rates, or to the Board of Transport Commissioners.
 - Q. Now, what evidence would you require---

THE CHAIRMAN: Pardon me a moment. This might be of some interest. Does the one standard conform to the other or not? That is to say, might a certain rate be found to meet with this standard respecting the railways but not be just and reasonable in regard to the shipper?

- A. The shipper might not think it was just---
- Q. I am not talking about what the shipper thinks. Do you think that would be the test that the Board would apply in a given case, that the Board would say, "Well, now, here is what the railways need according to their standard, therefore it is just and reasonable that you pay it"? Is that right? Is that what would happen?
 - A. I don't know that I follow you, sir.
 - Q. The shipper might come and say, "I claim this rate

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is unjust and unreasonable to me as a shipper."

- A. Yes, sir.
- Q. Now, would the application of this standard be a complete answer to him?
 - A. To the railway standard?
- Q. Yes, of the railway -- an application of the railway standard. If the Board were to find that your standard is conformed to in this rate, then must the shipper accept the rate?
- A. Well, I will put it this way, sir, that I think the railways have to assume that the present freight rates are fair and reasonable. Now, if---
 - Q. That they conform to this standard?
- A. Conform to this standard. Now, if the shipper thinks they are not fair and reasonable he can apply to the railways or to the Board for a change in the rates. Now, I do not say that the Board---
- Q. Is this standard the one that is applied? That is, is the rate looked at from the point of view of the railway?
 - A. Yes, sir.
 - Q. The railway's needs only -- is that right?
 - A. The railways?
- Q. Yes; I mean, would the Board say to a shipper, "Now, you may find this rate high"?
 - A. Yes, sir.
- Q. "And it is high for you to pay, but it must not be lessened, because we must apply this railway standard, which entitled the railway to certain things." Is that the way?
- A. They might make that decision after considering all the facts, yes, sir.
- Q. Well, is that the rule they usually follow in making their decision?

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- A. Yes, sir, unless the complainant puts up a case that the Commission thinks he is justified in having a reduction in the rate, that the railway rate is too high.
- Q. I know, but that does not answer the question.
 Would they give him a reduction even if they found that
 that rate did nothing more than comply with your standard?
 - A. I would say no.
 - Q. You would say no?
 - A. Yes, sir.

MR EVANS: I would suggest that the witness and you, sir, are at cross purposes.

THE CHAIRMAN: Are we?

MR EVANS: The test Mr. Brazier read is the overall test as to the reasonableness of the rate level. It does not follow at all that you examine the earnings of the company and the net return it gets from the mass of rates when you are considering the reasonableness of one rate; but the tests for reasonableness are exactly the same for the shipper as they are for the railways; in other words, what is reasonable for the shipper must be reasonable for the railways, and you must find what is reasonable to both, either individual rates or a sum total.

THE CHAIRMAN: Well, yes, but what the shipper would put behind his definition of reasonableness to him are not the same factors as you embrace in your standard.

 $$\operatorname{MR}$$ EVANS: Well, you won't find a shipper and a railway always in agreement.

THE CHAIRMAN: No, I know.

MR EVANS: That is the function of the Board, and they would lay down the principle. They will not give a shipper a rate that is unreasonable to railways, and they will not give the railways a rate that is unreasonable to the shipper.

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COMMISSIONER ANGUS: Mr. Evans, are not the words used really in two senses, that the standard of what is just and reasonable for the railway is an absolute standard---

MR EVANS: Yes; that is, for individual rates.

COMMISSIONER ANGUS: --- and the "just and reasonable" when it is applied to the shippers is a relative standard -- "Are you paying your share of that absolute amount fairly to other shippers?"

MR EVANS: I do not know that I understand you correctly, but/what you call the absolute standard I assume you are referring to the standard rates or the maximum rates. That is the prima facie level of reasonableness for individual rates, so that there can be, by tests that are applied all the time, findings by the Beard that, in the light of certain other things that have taken place, a particular rate for a particular individual is unreasonably high, even though it is not up to the standard. That has been done. But the standards of reasonableness are also standards of comparison, and the Board might well hold in a given case that it would not be reasonable to charge one shipper the maximum and another shipper in the same line of business something else.

COMMISSIONER ANGUS: Well, that is what I meant, I think, that the "just and reasonable" as applied to the aggregate is, do those rates in the aggregate give sufficient net revenue to the railway? -- perhaps one should have the words, taking one year with another.

MR EVANS: Yes.

COMMISSIONER ANGUS: Then when it comes to saying whether a particular rate is reasonable, it is relative to that accepted aggregate level, and saying, are shippers in comparison with one another paying just and reasonable

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rates? The second test would then be a relative test.

MR. EVANS: Yes. Prima facie the standard rates are just and reasonable.

THE CHAIRMAN: What I had in mind was how far the Board would allow a shipper to bring down evidence about his costs of business and so on. Supposing he did that, and said, "Now, here are my costs, and out of my costs I cannot afford to pay the railway more than so much, otherwise I have to go out of business, "would they say, "Well, all right, go out of business"?

MR. EVANS: Oh, no. The value of service principle - - if I may put the upper level and the lower level visually (indicating with hands). In between those they fluctuate according to the ability of the traffic to bear it. Now, if the shipper could establish that his traffic could not bear the rate, and that may be done by comparisons, he might get a lowering of his rate. Classification cases involve primarily questions of reasonableness. In other words all commodities are put in a classification, and he says, "Now, that should not be in the fourth class, it should be in the fifth class." He makes his case to the Board on the basis of what his commodity is, how it loads, what it is worth, what his ability is to pay or bear the rate that would be borne if he paid according to the present classification; he makes his case on that basis. There are a lot of considerations. Those classification cases are primarily reasonableness cases.

THE CHAIRMAN: Yes. Then he might get satisfaction, provided, however, that he will never get a rate which would not be compensatory to the railway.

MR. EVANS: No, sir.

MR. BRAZIER: Q. I want to refer you to certain rates, Mr. Jefferson, and to get your explanation as to why you consider these rates just and reasonable as between themselves to the shippers, and I will give you some ra

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and I think probably these rates have been changed slightly since the hearing in Vancouver, but you will recall Mr. Ewer, the Traffic Manager of the B. C. Tree Fruits, gave evidence?

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- A. I know that he gave evidence, but I do not know that I have ever read it. What volume is it in?
- Q. I do not think it hinges on the present actual rates. He gave some rates, and these are on canned fruits and vegetables, which we have heard quite a bit about.

The rate from Chatham, Ontario to Ottawa, a distance of 426 miles, your winter rate is $45\frac{1}{2}$ cents -- that is, it was at that time, for a 30,000 pound car minimum.

From Kamloops to Fernie, a distance of $421\frac{1}{2}$ miles, the rate is 77 cents for a carload of either 24 or 40,000 pounds.

If you were asked to justify the reasonableness of those two rates as between one and the other, how would you do it?

A. I can remember the late "Gerry" McGeer asking me that same question in Vancouver, in 1927 or 1928.

THE CHAIRMAN: Q. Who asked you?

A. The late "Gerry" McGeer, with respect to an application for a reduction in canned goods rates from Ashcroft British Columbia to prairie destinations.

MR. BRAZIER: Q. And there is a considerable traffic there?

- A. Yes, sir. But I do not think the rate on canned goods from Chatham to Ottawa has got anything to do with the rate on canned goods from Kelowna to Fernie.
- Q. You say there is no relationship between those two?
 - A. No, sir.
 - Q. But they are both covering the same goods?
 - A. Yes, sir.
 - Q. And they are both travelling on your railway?

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- A. Yes, sir.
- Q. And they are both travelling approximately the same distance?
 - A. Yes, sir.
- Q. But aside from that, you say there is no reason why there should be any relationship between those two rates?
- A. No, sir. The only way they would ever get into a relationship such as you suggest would be by equalization of rates. But then it would develop whether one of the rates was a competitive rate, or whether it was a normal rate, or what.
- Q. I have taken the winter rate. I take it that is your normal rate?
 - A. From?
 - Q. Chatham to Ottawa.
- A. It may be. But I do not know whether it is a class rate, a commodity rate, or what.
- Q. I do not think I have the tariff reference.

 But you say you cannot make any test of the reasonableness of the 77 cent rate in British Columbia by comparing it with the 45½ cent rate?
 - A. No, sir, I do not think so.
- Q. Now, I shall give you one other. It appears at Page 2817 of the transcript, the movement of peaches and apples from Kelowna to Banff.
 - A. Yes, sir.
 - Q. I believe there is a substantial movement there.
- A. There may be and no doubt would be in the summer season, when the hotels at Banff are open.
- Q. The distance is 305 miles, and the rate for peaches is 87 cents. That rate is slightly reduced now,

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- I think, with the removal of the Mountain Differential.
 - A. Yes, sir.
- Q. And the rate from Hamilton, Ontario to Pembroke, exactly the same distance, 305 miles, is 35 cents.
- A. Oh, you can find all kinds of examples of specific commodity movements wherein the rates in the east are lower than the rates in the west, while in other cases, the rates in the west are lower than the rates in the east.

However, there is no competition in selling peaches in Banff and Kelowna as compared with selling peaches in Pembroke or Hamilton.

- Q. Is that from the shipper's point of view, or is that one of the tests of reasonableness of the rate, whether or not he is selling into a common market with somebody else?
- A. With respect to the unreasonableness of the rate, the movement from Kelowna to Banff is in no way competitive with the movement from Hamilton to Pembroke.
- Q. Oh, I am not suggesting that it is, but I am trying to see if you can tell me whether both of these rates are just and reasonable from the shipper's point of view. I thought we had agreed that they must be just and reasonable from the shipper's point of view too.

A.Yes, sir.

- Q. I am interested in knowing, and in taking those two rates which have such a wide variation -- one of them is more than twice the other, and moving the same distance, and carrying the same commodity, how you justify, from the shipper's point of view, that both of them are just and reasonable?
 - A. It might be very desirable to have the rates the

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same for all movements of the same commodity throughout the country. But if we attempt to have equalization of all rates, whether class rates, commodity rates, or what not, the chips will have to fall where they may, and everyone pays the same rate. But I do not think it would be a good thing.

We all know that the class rates in eastern Canada are lower than the rates in western Canada, and we know that the rates in eastern Canada are more susceptible to competition than a rate from Kelowna to Banff.

I would like to ask what is the rate you gave me from Hamilton to Pembroke?

- Q. I am afraid I haven't got that information.
- A. I thought you gave me a rate.
- Q. Oh, yes, a rate of 35 cents.
- A. That is a truck competitive rate. That is not a normal rate. There is no truck competition from Kelowna to Banff.
 - Q. What would the normal rate be?
 - A. From Hamilton to Pembroke?
 - Q. Yes.
 - A. I could not tell you offhand.
- Q. And you could not enlighten me at all as to how the shipper can say that one rate is reasonable and that the other rate is unreasonable?
- A. I think that for the movement of fresh fruits, which you are speaking of now, if the rates, these rates, are fair to everyone, and there is no discrimination, if or/the rates, these rates -- I do not think it matters if the rate is higher in the west than in the east or if the rate is higher in the east than in the west, because I do not think that would show unreasonableness

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in the rates.

- Q. But the shipper in the west is making a larger contribution to your over-all requirements?
 - A. That may be in that one instance.
- Q. Yet you think that is just and reasonable as between those two?
- A. Yes. And I think you may find other instances where British Columbia may have lower rates than in the east.
- Q. You have substantial traffic out of the Okanagan Valley?
 - A. Yes, sir.
- Q. And I think the evidence in 1946 was that it amounted to approximately 17,000 cars of freight movement out of there which would be handled by both railways.
- A. I would not know the figure, but I do know that our railway handles a substantial movement of fruit, vegetables, and canned goods out of Okanagan to the prairies, the coast, and to eastern destinations.
- Q. And there is a substantial amount of in-freight too, for supplies for the industries there?
 - A. Yes, sir.
 - Q. Is that traffic lucrative to the railways or not?
 - A. I would say it is good traffic, yes.
 - Q. Could you not go a little further than that?
- A. I would say it is traffic which, on the whole, makes a reasonable return to the railroads. Yes.
- Q. And would you go so far as to say that it is probably some of the best traffic that you have?
- A. I do not know that I can go that far. But I do know that in handling fruits and vegetables you have a lot of care for that kind of traffic, because it is

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perishable traffic.

- Q. The movement of shipments has improved very considerably over the last 25 years?
 - A. Oh, yes.
- Q. And that movement is not as difficult; it is not as difficult to ship fresh fruits and vegetables today as it was at that time?
- A. Well, the equipment may be -- the refrigerator equipment may be better, but it costs us more money to provide it.
- Q. And also, in recent years, it has improved; these shipments have improved, because of the cold storage facilities in Okanagan?
 - A. Well, it is not even through the year.
 - Q. But it is much more so than it was 20 years ago?
- A. Quite so; and you might say that it is spread over eight months of the year, but not over the twelve.
 - Q. Fruit and vegetables are classed as fifth class?
 - A. No, there are varying classes.
 - Q. Well, what about apples?
 - A. They are fifth class.
- Q. Apples are fifth class, and they were established in that classification many many years ago.
 - A. Oh, yes.
- Q. Do you think there is any reason why the classification of apples under present conditions not should/be lower?
 - A. No, sir.
 - Q. You do not?
 - A. No, sir.
- Q. In spite of the improvements in the method of handling?
 - A. No, sir.

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Q. I now refer you to your evidence at Page 13913 in Volume 67 of the transcript for December 15, 1949.

In the early part of the season you move a lot of fruit and vegetables from Okanagan in cattle cars, do you not?

- A. That is right.
- Q. Quite a substantial part of that early traffic is in that type of car?
- A. When it requires ventilation instead of heat or refrigeration.
 - Q. You only use it in the early part of the season?
 - A. That is right.
 - Q. That makes a pretty cheap movement, does it not?
 - A. I would say more for vegetables than for fruit.
- Q. And from the railways' point of view that makes it a relatively cheap movement?
- A. Oh, yes, but that would not be for a very long period.
- Q. On Page 13913 you are criticizing the cost of service principle, and on the seventh line you say:

"Further, it would seem to me that the adoption of the cost of service principle would, for example, so affect freight rates that lumber and shingles or apples would not continue to move in anything like the same volume from British Columbia to Winnipeg or Toronto or Montreal."

- A. Yes, sir.
- Q. On what facts do you base that statement?
- A. Well, if the freight rates on the commodities produced in British Columbia, such as lumber and shingles, or fruit and vegetables, paid their normal freight rates for all destinations in western and eastern Canada,

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they would not be able to market their products.

- Q. You are speaking now of class rates?
- A. Yes, sir.
- Q. But very little of your traffic travels on class rates?
 - A. Let us take lumber and forest products.

Since the removal of the Mountain Differential, we placed a rate on lumber and forest products from British Columbia to the prairies on the Prairie Mileage Scale of rates which British Columbia asked for.

Now, I could not say that any special consideration was given to British Columbia with respect to those rates, so long as everyone is paying the same mileage scale, except that the tapering of the scale tends to assist industries in regions far away from the markets.

- Q. That is right.
- A. But if that scale was applied from British Columbia to eastern Canada, I think British Columbia would have great difficulty in marketing its products in eastern Canada.
- Q. If you applied your class rate scale to all the traffic moving on the Canadian Pacific Railway, you would be earning so much money that you would not know what to do with it.
- A. That is right, but I am not suggesting it, the class rate scale. I am suggesting a lumber scale.
 - Q. Yes, that is a lumber scale?
- A. Yes, sir; and I say that we are assisting British Columbia in reaching the eastern market.

If the rates were on the same relative basis, distance considered, and with a reasonable tapering of the rate to eastern Canada for the increased mileage,

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then, im comparison with the rates to the prairies, the rates to eastern Canada would be away higher than they are today.

- Q. How would the adoption of the cost of service principle affect that particular traffic, provided it is paying its full cost?
- A. I am not applying the cost of service principle to it.

THE CHAIRMAN: Q. You are not what?

A. I am not applying the cost of service principle to it.

We make rates on lumber and shingles from the Pacific Coast to eastern Canada in order to assist British Columbia in marketing its products in eastern Canada; and if the yield from the rates which are required to be made in order to assist British Columbia in reaching the far away markets is reasonably compensatory, we would assist them in reaching the markets.

MR. BRAZIER: Q. Yes?

- A. But I am saying that it would not be unreasonable if the rates were higher than they are.
- Q. And might it not be possible, too, that your rates to closer points would have to be lower, if it was a cost of service basis?
 - A. I would not say so, no.
- Q. I am just trying to find out why you make this statement, that so far as lumber, shingles, and apples are concerned --
- A. I could make that statement not only with respect to lumber, shingles, apples, canned goods, or anything else produced in British Columbia, where we make every possible effort to assist British Columbia in reaching far away markets, whether they be in Canada, in the United

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States or anywhere else.

- Q. Regardless of whether those movements are actually paying their full cost?
 - A. Yes, sir.
- Q. Assuming that they are today, under the present rates, paying their full average cost of those shipments --
- A. I would not admit that anything is paying its full share today.
 - Q. And why would you not?
 - A. Because we are not making enough money.
- Q. Well, let us suppose that they were on a basis where you would be making enough money?
 - A. Yes, sir.
- Q. And that they are paying their full average cost; and then you adopted the cost of service principle. I suggest to you that that traffic would not be affected in any way.
- A. If we are obtaining sufficient revenue to meet all our requirements, the present system of rate making is all right.

But if we were going to change that system -- and we are still getting all the revenue we need for our requirements, but are going to increase the rates for the long haul traffic and get some more money, then we might have to reduce the rates for the short haul traffic so that we would not be getting too much money. But we are not in that happy position.

- Q. If you should adopt the cost of service principle, or move in that direction, there would be thousands of rates in your tariff today which you would have to increase before you increased the rates on lumber and apples from British Columbia to eastern markets.
 - A. That is a matter of opinion.
 - Q. You would not agree with that?

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- A. No, sir.
- Q. Your long haul traffic is really very profitable traffic, is it not?
 - A. If it yields a reasonable return, yes.
- Q. All right. Now, what return does this traffic yield to you?
 - A. I do not know.
- Q. Take a shipment of apples to Winnipeg, one of the points you have mentioned.
- A. I do not know. I do not think I have any tests here, or any figures here which would show.
- Q. I suggest to you that you cannot make that statement unless you have those tests.
- A. I can make it just as well as you can make it.
 You say they are not, while I say that they are.
- Q. You are the one who said they were, originally, and I want to find out why you made that statement?
- A. Because it is only common sense. It is only good business to help British Columbia reach the markets.
- Q. I am not quarrelling with that. But in effect, what you said here is that these rates from Okanagan, let us say, to Winnipeg, are not paying their full cost.
- A. If freight rates are made on any rigid cost of service principle, British Columbia would suffer.
- Q. I am not suggesting a rigid cost of service principle.
- A. British Columbia would suffer in reaching far away markets.

THE CHAIRMAN: What are you suggesting Mr.

Brazier? I thought you were suggesting the application of a cost of service principle.

MR. BRAZIER: Yes, but not a rigid one.

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We suggest service on a reasonable basis of cost.

THE CHAIRMAN: Would you refresh my memory?

I think in your brief you mentioned a Professor K. T.

Healy?

MR. BRAZIER: Yes.

THE CHAIRMAN: Do you also show us any country wherein the railways are carried on, applying the cost of service principle?

MR. BRAZIER: No, I think it is a theory of rate making which is only now just beginning to get some acceptance in railway circles.

THE CHAIRMAN: And you think it should be applied to Canadian railways?

MR. BRAZIER: Yes.

THE CHAIRMAN: But not too rigidly?

MR. BRAZIER: Not too rigidly, no. And I think we show there could be a certain average which could be struck, and which could vary within limits.

THE CHAIRMAN: And you would depart sometimes from the strict cost of service factor?

MR. BRAZIER: Yes.

COMMISSIONER ANGUS: Do you think that the words "just and reasonable" should apply, or should those words be changed?

MR. BRAZIER: There should be added the words: "in relation to the cost of service".

MR. EVANS: I think my friend has just said that the cost of service principle was something new. He is forgetting that writers on this subject were discussing this cost of service principle at least one hundred years ago.

MR. BRAZIER: Yes, but it is only now beginning to get some acceptance.

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THE CHAIRMAN: We shall adjourn now until this afternoon.

--- (At 1:00 p.m. the Commission adjourned until 2:45 p.m. this afternoon.)



February 23, 1950.

AFTERNOON SESSION

C.E. JEFFERSON - RECALLED

CROSS-EXAMINATION BY MR. C. W. BRAZIER (CONT'D)

THE CHAIRMAN: Very well, Mr. Brazier.

MR. BRAZIER: Mr. Jefferson, before the adjournment, I was calling your attention to your statement on page 13913 of volume 67 of the transcript, regarding lumber and fruit rates from British Columbia.

- A. Yes sir.
- Q. My question was as to the basis of that statement.

I presume you would only make that statement if you felt that the rates themselves were not compensatory rates?

- A. Yes sir. I would like to illustrate just what I was saying.
 - Q. All right.
- A. Now, let us take lumber from Vancouver to Winnipeg, a distance of 1,464 miles. The rate is 90 cents. The minimum carload weight is 50,000 pounds. The per car earnings is \$4.50; and the car mile earnings are 30.7 cents.

From Vancouver to Montreal, for a distance of 2,878 miles, the rate is \$1.18. The minimum carload weight is 50,000 pounds. The earnings per car are \$590. The earnings per car mile are $20\frac{1}{2}$ cents.

Both are below the eastern, the western, or the system average earnings per car mile.

- Q. For the distances given?
- A. For the distances given.

I will admit that on some movements of lumber, especially timber, which is not finished lumber, or shingles, you would not get the weight. But if you were

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moving timbers, you would, because in so far as timber movements are concerned, they have a greater weight in the car than 50,000 pounds.

- Q. It might go up as high as 100,000 pounds?
- A. No, not so high as 100,000 pounds, but, let us say, up to 80,000 pounds.

Now, take apples from the Okanagan. The minimum carload weight is not representative of the actual loading, because they load 37,500 pounds in a car, which is the minimum.

The rate on apples from Kelowna to Winnipeg, a distance of 1,209 miles, is \$1.61, the minimum carload rate on 37,500 pounds. The earnings per car would be \$603.75. The earnings per car mile, 49.9 cents.

That figure is above the eastern, the western, and the system average.

Take Kelowna to Montreal, a distance of 2,623 miles. The rate is \$1.97. The weight is 37,500 pounds per car. The earnings per car are \$718.75; and the car mile earnings are 27.4 cents.

In connection with the movement of apples, that is below the eastern, the western, the system average car mile earnings.

You must bear in mind that in moving apples. you are moving them in cars of greater tare weight than the box car, because it is a much more expensive car than the box car.

THE CHAIRMAN: In what sort of car did you say?

A. Refrigerator cars. And all I was saying was that, in any rigid cost of service principle, or any such principle, you would not have, if you adhered to it, you would not have rates to eastern Canada as low as they Both Control of the Con

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are today; and the rates which we do have are of benefit to the province of British Columbia.

MR. BRAZIER: I make this suggestion to you: If you were on a cost of service basis, you might have the same rate to Montreal, but you would have a much lower rate to Winnipeg than you have at the present time. Would that be possible?

A. You might, but that would not help market a crop, because the people in Winnipeg would consume only so many apples.

It is a wider distribution you want, not a restricted distribution.

- Q. It would not interfere with the distribution in Montreal.
 - A. What do you mean?
- Q. The proposition I put to you is: There is a possibility of your rates to Winnipeg being too high, and that your rates to Winnipeg on a cost of service basis would still be the same as they are today?
 - A. You would have a much higher rate to Montreal.
- Q. No, you would have the same rate, but Winnipeg would be reduced.
- A. I suggest you would not pay the same rate to Montreal.
- Q. You do not know what the cost would be to move a carload of apples from Kelowna to Montreal?
 - A. No.
- Q. You say these averages you have given to me, say, the first one on lumber, 30.7?
 - A. Yes sir.
 - Q. That is per ton mile?
 - A. Per car mile.
 - Q. Oh, per car mile?

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- A. Yes sir.
- Q. It is below the system average?
- A. Yes sir.
- Q. And your system average is for a distance of --
- A. The system average is what?
- Q. What is your average haul?
- A. That is on page 89 of Part I.
- Q. The average haul is 199.7 miles?
- A. No, sir, 420 miles.
- Q. 420 miles?
- A. Yes sir.
- Q. For all traffic?
- A. I beg your pardon?
- Q. For all your traffic?
- A. That is right.
- Q. You would not expect to get the same car mile revenue average on traffic that travels 1464 miles as you would on traffic travelling only 420 miles?
- A. No, not on our system of making freight rates, but under a cost of service principle, you might.
- Q. I suggest to you that that per car mile revenue from Montreal on lumber is higher than your system average for hauls of that length?
 - A. I do not know.
- Q. You have never studied the per car mile earnings for different lengths of haul?
- A. No sir, and I do not know how you could suggest it or determine it.
- Q. Well, you must have a lot of traffic that goes, let us say, 1,500 miles on your system?
 - A. Yes sir.
- Q. And could you not segregate that traffic out and find out what your average earnings for the traffic

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- A. It would mean having a knowledge of each commodity for that distance in a given period.
 - Q. But that could be done, could it not?
 - A. Yes, but it would take an enormous amount of work.

I would venture to suggest that the average of that traffic of 1,500 miles would be a little higher than your car mile revenue, that is, the lumber.

- Q. Why do you make that suggestion, when the average for your whole system is only 35 for 420 miles?
 - A. Because the rates on lumber and apples are low.
- Q. What can you suggest constitutes your class traffic which is higher?
- A. Take all your class rate traffic, your merchandise and what not. Lumber is --
 - Q. A class traffic?
- A. Yes, a commodity traffic. Lumber is a rough commodity. I think you would get better revenue on canned goods than you would on lumber.
- Q. It is quite true that you cannot possibly compare your car mile earnings with your system average and give you any answer that is worthwhile either to you or to anybody else.
- A. I can get an answer that will show me how my yields are working out.

It will be an impossible thing to take all your traffic, because you do not know what traffic you are going to handle today or tomorrow or a month from today. You have got to take your results.

- Q. But you could test it from to time?
- A. From our statistical results, yes. But you could not test it for given distances.
 - Q. But you could test it for varying distances quite

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easily, I suggest?

- A. I won't suggest it could not be done, but it would mean an awful lot of work to do it.
- Q. Don't you think that if you did, though, you would have a better idea of whether particular traffic is compensatory or not?
- A. You might. I do not know what the result would be.
 - Q. Anyway, you never pursue those studies at all?
 - A. No sir.
- Q. Now, referring to that statement again, Mr. Jefferson, I take it it is your opinion that they are not compensatory rates to the railway?
 - A. Lumber from Vancouver to Montreal?
 - Q. And apples?
 - A. From Kelowna to Montreal?
 - Q. Yes?
- A. Lumber from Vancouver to Montreal at 50,000 pounds per car could not be considered as particularly compensatory when it only pays $20\frac{1}{2}$ a car mile which is against a system average of 35 cents.

And apples are not so much below the average as the lumber, at 27.4 cents a car mile.

- Q. Would you say, on the whole, that those two rates are lower than the transcontinental rates?
- A. Well, you can test that by looking at one of your exhibits.
- Q. Actually, the lumber rate would be a transcontinental rate, would it not?
- A. Oh yes. Let us take our exhibits on the transcontinental rates.
 - Q. In the Appendix?
 - A. Yes sir, pages 81, 82, and 83 of the appendix.

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Take that $20\frac{1}{2}$ cents per car mile on lumber from Vancouver to Montreal. There isn't anything on the eastbound sheet as low as that, and anything on the westbound sheet as low as that.

I think, in the main, you would find that your westbound transcontinental rates yield much higher car mile revenue than the eastbound lumber. I would not hesitate to say that.

- Q. But after studying these transcontinental rates, of which lumber was one, you came to the conclusion that there was no doubt that these rates were compensatory to the railways?
 - A. Yes sir.
 - Q. And you so stated it in your brief?
- A. I won't say that they are. I am saying that we are doing all we can for British Columbia to market its products in eastern Canada and the United States as well as in western Canada.

If you are going to have any rigid cost of service principle, or anything which resembles it, you are not going to have such a wide distribution area as you have today.

- Q. Nobody has suggested a rigid cost of service basis.
- A. I do not know how you could have any at all which was not somewhat rigid.

THE CHAIRMAN: Does Professor Healey leave room for rigidity?

MR. BRAZIER: No. His statement is that they should be on a "more nearly cost of service basis".

Q. And now, Mr. Jefferson, I would like you to look at your evidence at page 14007 of volume 68.

THE CHAIRMAN: What are you looking at now? .

MR. BRAZIER: The transcript.

Q. You are speaking there, Mr. Jefferson, of pick-up

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and delivery service.

- A. Yes sir.
- The chairman asked about this 41 cent rate, and Q. I quote your answer starting at the bottom of the page, as follows:
 - "A. If there was no pick-up and delivery service at either end the rate would still be 41 cents."

Is that right?

- I do not know what point we are talking about at that time.
 - Q. Calgary to Lethbridge, I think.
 - Calgary to Lethbridge, yes.
- You have a great many pick-up and delivery rates in eastern Canada?
 - A. Yes sir.
- Many of them, I presume, are for short distances such as around the city of Montreal or the city of Toronto?
 - A. We have them all over the east and the west.
- Q. But you would have a great many operating into and out of those two main cities?
- A. Oh yes, we have pick-up and delivery rates all over Canada for certain areas, and the pick-up and delivery rates are the same scale within an area, whether you have pick-up and delivery at both ends, or whether it is pick-up and delivery at only one end.
- Q. What is the lowest pick- up and delivery rate that you have?
 - A. I do not know.
 - Q. Tell me offhand.
 - A. For what distance do you want?
 - Q. The shortest distance.
 - A. You would have to take five miles.

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- Q. Five miles; and the rate would be approximately how much?
- A. Well, it would be the minimum rate in the tariff. We have a minimum class scale. Before the increase it was 24 cents, but today the minimum pick-up and delivery scale in the east, now, is 31 cents for group 1; 27 cents for group 2; 24 cents for group 3; and 19 cents for group 4.
 - Q. For five miles, is it?
- A. Yes, that would be the lowest; and I do not imagine we would handle any traffic at five miles; but that is the rate.
- Q. I want to get down to something which actually occurred. What would you say is the shortest distance you handle this traffic?
- A. I do not know. You can take fifty miles or a hundred miles or whatever you want.

(Page 16285 follows)

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- Q. Do you have some traffic at fifty miles?
- A. Oh, yes.
- Q. A considerable amount of it?
- A. I don't know how much, but we would have some pick-up-and-delivery traffic from Montreal to Farnham which is fifty miles.
 - Q. What would the rates on that be for Group 4?
- A. That would be 48ϕ for Group 1, 42ϕ for Group 2, 36ϕ for Group 3 and 31ϕ for Group 4.
 - Q. 31¢ for Group 4?
 - A. Yes, sir.
- Q. Now, what would your average cost of pick-up-and-delivery be between the two points you have mentioned?
 - A. Montreal and Farnham?
- Q. Yes, what would be the cost? That would be pick-up in Montreal and delivery in Farnham.

THE CHAIRMAN: What is this please?

MR. BRAZIER: What would be the average cost of his pick-up-and-delivery service, the average hauling to the railway and delivering at the other end?

COMMISSIONER INNIS: Between those two points?
MR. BRAZIER: Yes.

THE WITNESS: Well, the pick-up-and-delivery cost in Montreal is $14\frac{1}{2}\phi$.

THE CHAIRMAN: That is what you charge, is it?

A. That is what we pay for the service out of this rate.

MR. BRAZIER: And what would the delivery be

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on the other end?

- A. 6¢.
- Q. So your total cost of your pick-up-and-delivery is $20\frac{1}{2}\phi$?
 - A. Yes, sir.
- Q. Which leaves you $10\frac{1}{2}\phi$ to cover your costs of handling that traffic?
- A. For that particular group, but that is not all the groups.
 - Q. I am just dealing with one.
 - A. You are taking the lowest, yes, sir.
- ${\tt Q.}\,\,\,{\tt Now,}\,\,{\tt do}$ you think that is a profitable rate to the railway?
- A. I think so. When you are meeting competition you have got to take the bitter with the sweet and take all the traffic; you can't pick and choose.
- Q. Never mind the competition, Mr. Jefferson, but do you think the railways make any -
- A. How can you have a tariff and say you will handle this commodity and not handle that one?
- Q. I might suggest that you might eliminate these and you would be farther ahead?
 - A. Could go out of business altogether.
- Q. I am not suggesting that, but this particular type of traffic?
 - A. I would not agree with that.
- Q. You would not say you are actually losing money by handling that traffic?
 - A. Not by and large, no, sir.
- Q. This traffic at this particular rate that we are speaking of?

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- A. Maybe, but you have to take it collectively; you can't take four groups in a tariff from Montreal to Farnham and pick the lowest and say that that is your revenue.
- Q. And if you are actually losing money on it, then the rest of the shippers would be further ahead if you did not handle that particular traffic?
 - A. That would be right, yes.

THE CHAIRMAN: How are these Groups differentiated from each other? Is it according to distance?

- A. No, sir, according to the Canadian Freight Classification. Rates classified First Class take Group 1, rates classified second take Group 2, freight classified third takes Group 3 and rates classified fourth take Group 4, and those classifications represent the less than carload classification which the pick-up-and-delivery rates apply to.
 - Q. They do not apply any lower down?
 - A. No, sir.

COMMISSIONER INNIS: You have given the rates on the lowest. What would be the rates on the highest?

- A. In that particular case the highest was 48ϕ . That is if it was a first class; not a multiple of first class.
 - Q. That would leave how much, about?
 - A. Well, $20\frac{1}{2}$ from $48 27\frac{1}{2}\phi$.
 - Q. As compared with 10¢ on the lower?
 - A. Yes, sir.

MR. BRAZIER: I take it, Mr. Jefferson, that you are of the opinion that the railways would not be

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further ahead if they did not attempt to meet truck competition with that type of traffic?

- A. We would not be further ahead?
- Q. Yes.
- A. I say we would not be if we dropped that business.
- Q. But your cost of handling that particular type of business is not greater than the saving you would make in your expenses if you forewent all that traffic?
 - A. By and large, I would say no.

MR. EVANS: May I give to Dr. Angus a little reference that might be helpful on the point we were discussing this morning.

Mr. Walker in his evidence gave an extract from a Report made by three of the Interstate Commerce Commission Commissioners on this question about whether there should be some effect given to higher earnings in prosperous times, and, without reading the whole thing, it had to do briefly with the burden of fixed charges and dividends but it said this in part. This is from 13385:-

"The advantage of stock is that in times of depression, dividends can be passed without danger of bankruptcy. But the fact that they are so passed is in itself a reason why they should, if possible, in times of prosperity be paid in generous measure, at least on stock supported by property value".

That is the watered-stock idea. If there is watered-stock, no.

THE CHAIRMAN: Let the water run off.

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EXAMINATION BY MR. COVERT

- Q. Now, Mr. Jefferson, I wanted to first touch a little bit on the question of agreed charges.
 - A. Yes, sir.
- Q. Now, my understanding is, as far as the Canadian Pacific Railway is concerned, they are clearly of the opinion that the agreed charge is not necessary to enable you to compete with other forms of competition which are not regulated?
 - A. That is right.
- Q. And I presume that you have read the Brief of the Canadian National Railways on this subject of agreed charges?
 - A. Yes, sir.
- Q. Now, is the Canadian Pacific in sympathy with the proposed amendment suggested by the Canadian National Railways?
- A. Well, I could answer that perhaps best this way, that I understand the Canadian National are going to suggest when they submit their Brief, some amendments to that Section of it. I will say that the railways naturally want all the freedom they can possibly have to meet the competition of unregulated carriers, and, as I expressed it I think it was last Friday, if all modes of transportation were properly regulated and regulations fully enforced, there would not be the same necessity for agreed charges as there is today.

THE CHAIRMAN: I notice that the Canadian

National Railways' Brief begins to deal with agreed charges
on page 171?

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MR. COVERT: It goes from 171 to 181.

THE CHAIRMAN: Where do they propose this amendment?

MR. COVERT: At about page 180, Mr. Chairman. The recommendation is:-

"We therefore recommend that Section 35 of the Transport Act be repealed and the following substituted:..."

THE WITNESS: I don't think I have the Canadian National Submission here.

MR. COVERT: Section 35, Mr. Chairman, as it now stands, has 13 sub-sections, and the proposal of the Canadian National Railways reduces it to about 5, but I believe that the main proposals of the Canadian National Railways are that the Railways should be given more freedom. For instance, the limitation of cents per hundred or so on, that that should be eliminated. I think that is right, is it not, Mr. Jefferson?

THE WITNESS: I beg your pardon?

- Q. The Canadian National Railways suggests, for example, that the present limitation of having the agreed charge expressed in cents per hundred pounds or "such other unit as the Board may approve" that is one thing, as I understand, which the Canadian National Railways wish to do away with?
- A. Well, perhaps without presuming too mach, I can say they wish to change that.
 - Q. Will change that?
 - A. Yes, sir.

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THE CHAIRMAN: You mean their recommendation? A. Yes, sir.

MR. COVERT: My point is, do you think that that provision should be done away with? I want to get your views, if I may.

A. My view would be that it should not be done away with.

THE CHAIRMAN: Can you tell me where it is in Section 35?

MR. COVERT: Yes, you will find it in Section 35, sub-section 3, on page 13.

THE CHAIRMAN: "...shall be expressed in cen'ts perhundred pounds". I understand then, from Mr. Jefferson that probably the Canadian National Railways would be content to leave it as it is. Probably they would be content to let this stand as it is?

THE WITNESS: Pretty much, I think, yes, sir.

MR. COVERT: Now, that provision, I understaind Mr. Jefferson, is really some protection to other carrilers and to shippers. That is the purpose of having it necessary to put it in in cents per hundred, is it not?

THE CHAIRMAN: I notice though that the Section as it stands at present says that the Board may change that - "...shall be expressed in cents per hundred or such other unit as the Board may approve".

MR. COVERT: Well, it might not be cents per hundred; it may be per gallon or something like that but there should be some unit.

THE WITNESS: Well, I would not be wrong in saying that that Section of the Agreed Charge Act was with the thought of having agreed charges expressed

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- 16292 - Mr. Jefferson

insofaras charges were concerned in the same form as the railroad tariff.

- Q. But the purpose of it was so that people would know what the rate was, so that you could really see what was being paid and if you said "I will haul all your business for 1 million dollars a year" nobody would know what it could be compared with. Isn't that the real purpose behind it?
- A. That may be. On the agreed charges in England they have a different method of expressing their charges. It may be per hundred weight or it may be per ton or it may be so much on all their business.
- Q. Now then, I believe one of the objections of the Canadian National is the delay in completing this agreed charge, and I think they suggest that the only formality which should be required is the filing of the agreed charge as a tariff in the usual manner, the same as a competitive tariff?

A. Yes.

THE CHAIRMAN: What is that you say?

A. File it the same as a competitive tariff.

MR. COVERT: I have not asked him that yet, Mr. Chairman. I was going to ask you this; does the Canadian Pacific Railway agree with that amendment?

- A. Well, I agree with it to the extent that I am willing to take all the flexibility in making competitive rates that I can get.
- Q. But my understanding of the Canadian National in presenting their Brief, is that they defend the agreed charge on the ground that it gets lots of publicity; everybody has lots of time to come in and

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check it and see if they want to come in on it and so on?

- A. The Canadian Pacific in its Submission has not suggested any change.
- Q. What I want to find out is, do you think you could defend the agreed charge if the present provisions in the Act as to acts and requirements of filing and so on were done away with?
 - That we could defend the agreed charge?
 - Q.
- I would say we could defend it in just as capable a manner as we would defend a competitive rate.
- Q. I don't know that that answers my question. I am not suggesting you are avoiding it, Mr. Jefferson, but what I want to know is, do you feel that to defend the agreed charge as you have done in your Brief, that it is necessary that one of the defenses necessary is that there must be plenty of notice?
- A. We say the agreed charge principle does give plenty of notice.
 - Q. But if you took away that notice?
- A. Then I would still say the railways could defend it. Don't overlook the fact that when the Agreed Charge Act was passed by parliament in committees and in conferences and so on, that the railways were at that time endeavouring to obtain all the flexibility that they could, but that the Act, as it was passed, was the best that could be obtained.
- Q. You no doubt remember some of the discussion of this Transport Act at the time this particular Section was put in?
 - A. Yes, sir.

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- Q. And these provisions that are now in the Act were felt to be necessary?
 - A. Yes, sir, felt to be necessary safeguards.
- Q. You have had some experience with it, and what I really want to find out is if there is any reason, in your view, that these safeguards should be done away with?
 - A. We are not asking for it.
- Q. I am sorry; I am not quarreling with you on that at all. I realize you are not asking for it. I just want your view.
- A. I think we might let the Canadian National explain why they are asking for it, but I will put it to you this way, that if we can have more flexibility under the Act, all right.
- Q. I don't think you have answered my question.

 I would like to say first, that when the Canadian

 National submits its case then we will have an opportunity

 of finding out their views, but I would like your views,

 Mr. Jefferson, as to whether or not you think these

 protections or safeguards that were introduced by

 Parliament at the time of passage, whether there is any

 change which has been brought about which would suggest

 that they might be done away with today?
- A. The Agreed Charge Act was the best we could obtain at the time. If there was more flexibility under the Act, it would naturally help the railways to meet the competition of unregulated carriers, but if the Act is the best we can have, then we have to be content with it or else have other forms of transportation regulated to the same extent as is the railways.

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- Q. I take it, Mr. Jefferson, that there are two things; either I have not made my question clear, or you do not choo to give me your opinion?
 - A. Well, I think you have made yourself clear.
- Q. Well, I have asked for your opinion as to whether or not there has been any change in the situation which would warrant the taking away of these safeguards, and you have always answered me as to 'Well, if you can get more for it". But I want your opinion.
- A. I do not say there should be any change, but I would like more flexibility if we can have it.
- Q. You would like more flexibility perhaps than the Canadian National Railways has asked for?
 - A. I don't think I could ask for any more.
 - Q. You know that is the wide-open limit?
 - A. Yes, sir.

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- Q. Now, you feel that there is not really the necessity for the notice that is called for under the Act today?
 - A. If you want my own opinion---
 - Q. Yes, that is what I want.
- A. I do not think there is any more necessity for a notice under an agreed charge than under a competitive rate. They are both competitive rates.
- Q. Well, that is the opinion I have been waiting for for a long while. I appreciate that now. Perhaps we can get your same opinion on some of the other things. For example, I understand that the C. N. suggests that where the present Act provides that any carrier to whom the Act applies can be heard in opposition to an application, this has seriously restricted the use of the agreed charge?

MR HART: If I may interrupt for just a ommoment, my lord, I am informed that this portion of our brief is undergoing some changes and some amendments, and it may be fair to warn the Commission now that the very facts that Mr. Covert is cross-examining on now may well not be put forward by the C.N.R. when the time comes for their formal presentation. Unfortunately, just now I have no information on what changes are being made, but I know that changes are to be made in the three various subjects that he has happened to pick out at this time. I thought it was only fair to warn the Commission that such changes are under review at the moment.

THE CHAIRMAN: Then, in other words, we are not having the benefit of a complete brief before us, as we had hoped?

MR HART: Well, I certainly hope that in the very near future these changes will be complete and made available to the Commission, but I have no information at the

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moment on those changes.

THE CHAIRMAN: You see, what happens then is that counsel are not in a position to question Mr. Jefferson.

MR HART: I quite appreciate the difficulty.

THE CHAIRMAN: Which is a handicap to everybody.

MR COVERT: It is perfectly all right, though, I thank Mr. Hart for the information, but, my lord. supposing they do not come in with this brief, that they do change it, we might want to know whether the Commission would want to recommend it as they had it. But it seems to me to give a wonderful opportunity -- perhaps wonderful is too strong a word, but it gives an opportunity to find out just what the real points about this agreed charge are. Now, we have seen the Act, and we have heard evidence that the agreed charge is bad, but now we have a man in the box who can, with his wide experience, give us views as to whether or not there should be notice. He has told us that he does not believe there should be any difference as far as the agreed charge is concerned from a competitive rate. Now I would like to find out, regardless of whether or not the Canadian National is coming in with an altered brief, what his views are as to these suggestions.

THE CHAIRMAN: I agree that this is an opportunity provided of which you ought to be able to take advantage with Mr. Jefferson while he is here. You suggest, then, that you might put to Mr. Jefferson what is in this present C.N.R. brief anyhow?

MR COVERT: Yes, that is right. Supposing it had not been submitted to us at all, we still might---

THE CHAIRMAN: I agree with that. It will help to enlighten us. You say you are no longer bound by this---

MR HART: All I wish to point out, my lord, is

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that it is quite possible that what is being put forward now by my friend Mr. Covert as the C.N.R. opinion quite possibly is not the C.N.R. opinion, and if he puts these forward as suggestions and does not link them with the C.N.R. I of course have no standing in the matter. It is just a matter of warning them along that line.

THE CHAIRMAN: They are proposals; they are proposals that you intend to withdraw, but nevertheless they may be helpful to us to canvass with Mr. Jefferson. In the first place, I would like to be reminded: The C.P.R. itself has not made any proposals, has it, about---

MR COVERT: No, I think no proposals. They have defended the agreed charge as it exists. I think that is a fair statement.

 $$\operatorname{MR}$$ EVANS: Yes; we have not asked for any change in the Act.

THE CHAIRMAN: Then, Mr. Covert, if you think it would be useful to ask Mr. Jefferson questions based on what is now in the C.N.R. brief, I would say go on and do so.

MR COVERT: Q. Then, Mr. Jefferson, I think I did put it to you that the C.N.R. did suggest in its brief that, since the Act now provides that any carrier to whom the Act applies can be heard in opposition to an application for an agreed charge -- the C.N.R. suggested in its brief that this had seriously restricted the use of the agreed charge, and I wanted to know first if you agreed with that?

A. Well, as I understand, the C.N.R. submission in that respect is that an agreed charge should be published just the same as a tariff, without any prior notice to the public; I mean by that, distributing it and waiting thirty days for it to be heard, and so on. The C.N.R. suggestion is that you publish an agreed charge just the same as you publish a competitive tariff. Now, whether you would do it

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on one day's notice or three days' notice or thirty days' notice, that is a matter for discussion and decision, but the point that you are discussing now is whether this notice of intention of making an agreed charge should be widespread before you enter into it. Now, the position is that if you were permitted to publish an agreed charge just the same as a competitive tariff you would do so, you would make it applicable; then if anyone had a complaint to make he would make a complaint to the Board, just the same as they do under a competitive rate or any other rate, and they would be heard.

- Q. I guess I missed it. As I understand it now, for instance, in the handling of certain goods the Transport Act applies we will say to a company like the Canada Steamship?
 - A. I beg your pardon?
- Q. I say that in the handling of certain goods the Transport Act now applies to the Canada Steamship Company, doesn't it?
 - A. Oh, yes, for package freight, within a defined area.

 THE CHAIRMAN: Not goodsin bulk.

MR COVERT: No, that is right; package freight.

- Q. Now, if you put in an agreed charge the Canada Steamship can come along and complain to the Board that that has an adverse effect on them; isn't that correct?
 - A. They might, yes.
- Q. Now, my understanding is that the C.N.R. says that that has had an adverse effect -- the fact that another carrier to whom the Act applies can come along and be heard in opposition to the application for the agreed charge has adversely affected or restricted, seriously restricted, the use of the agreed charge by the railways?
 - A. Yes, I would assume that the ---

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- Q. Would you agree with that?
- A. I would assume that the position of the Canadian National in that respect would be that they think each one should have the privilege of making an agreed charge.
 - Q. Well, now, do you agree with that, Mr. Jefferson?
- A. Well, of course I am in the hands of the Commission and my own counsel, but I do not like to get involved in a dispute, any differences of opinion between the Canadian Pacific and the Canadian National on the agreed charge. We have said that the agreed charge section as it is today is satisfactory to us, in that we are prepared to work under it.

MR COVERT: I do not like to put Mr. Jefferson in an awkward position, Mr. Chairman, but it would seem a pity to me in the circumstances that we cannot ask Mr. Jefferson for his personal---

THE CHAIRMAN: Q. You see, we are told in the first place, Mr. Jefferson, that this page no longer represents the C.N.R.

- A. That is right.
- Q. Now, having that in mind, I do not see any reason why you might not tell us what you think of the different paragraphs that are here.
- A. Well, I rather felt this way about it, that if that is not their view, why discuss it?

THE CHAIRMAN: Well, it does not matter now whose view it is; it just gives the basis for certain questions that Mr. Covert wishes to address to you. Do you see any reason why, Mr. Evans?

MR EVANS: No, sir; I have no objection to him giving his personal opinion.

THE CHAIRMAN: There you are.

THE WITNESS: All right, sir.

MR COVERT: Q. Then, Mr. Jefferson, may we have your

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opinion on that?

THE CHAIRMAN: Now, what is your question?

MR COVERT: The question is whether or not that has had a serious restrictive effect on the use of the agreed charge, the fact that another shipper can come in and complain or object to the agreed charge, on the basis that it---

THE CHAIRMAN: Q. Speaking on the basis of experience, what is your experience?

- A. Speaking of another shipper or another carrier?

 MR COVERT: Q. Another carrier?
- Well, the agreed charge section as it is today says, as I read it, although we have not been upheld by the courts, that one railway cannot make an agreed charge on competitive traffic unless the other railway agrees. Now, I can be corrected if I am wrong, but the railways attempted to make agreed charges without agreement with the Canada Steamship Lines on traffic in which the Canada Steamship Lines were regulated, and the Canada Steamship Lines objected to the agreed charge that the railways wanted to enter into, and the result was that the agreed charge that the railways wished to enter into was not upheld by the courts because of their objection. Now, to me it is a question of whether or not in making agreed charges -we will say that the railways are regulated and the water lines are regulated and the trucks are regulated, if you will -- that each could make its own agreed charge without agreement on another form of transportation, but any two carriers under one form of transportation would have to be in agreement with the other before it could make an agreed charge.
- Q. You would be afraid, then, Mr. Jefferson, for example, if the C.N.R. could amake an agreed charge and the

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- C.P.R. could not come and oppose it because it affected their lines; you would be fearful of that?
 - A. I would not want that, no, sir.
- Q. But you would not object as long as all the railways had the opportunity, but you could not exclude a shipper of another class such as a steamship company?
 - A. Yes, sir, or the trucks.
- Q. Now, would the reason behind your thinking in that be because you would be afraid of a rate war?
 - A. A rate war with whom?
- Q. Well, for example, if one railway could make an agreed charge and the other could not, the other could not oppose, the other did not have---
- A. It would not be a question of a rate war; it would be a question who could go to John Jones and get the agreement first. I would not want -- I will speak very frankly -- I would not want the Canadian National going to Eaten's and making an agreed charge that I could not get in on, but I could go over to Simpson's and make an agreed charge that they could not get in on. I do not think it would be healthy for either of us. We would be just cutting each other's throats. That might be a rate war.
- Q. As a matter of fact, I suppose if one railway was not perhaps as needful of revenue as the other, it might be very serious for the---
 - A. I beg your pardon?
- Q. I suggest it might be very serious, for instance, for a private enterprise if the other railway did not have to look at the revenue as closely?
- A. Well, they might need the revenue just as badly as we, or more so.
- Q. I think you understand what I mean; if you have a deficit in one, I suppose there is a difference than if you

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have a deficit in the other?

- A. If you have a deficit in one and not in the other, well, you might say we could make an agreed charge on a lower basis than they.
- Q. I think perhaps we are not clear. All I am pointing out is that the situation of the two railways -- if the C.P.R. had continued deficits I suppose the final result might mean bankruptcy?
 - A. The C.P.R.?
 - Q. Yes.
 - A. Yes.
- Q. If the C.N.R. had continued deficits I suppose the taxpayer eventually must pay the difference?
 - A. That is right; but I think I---
 - Q. Would that have any ---
- A. I do not think we should approach it that way at all. I think it should be approached from the point of view that so far as railways are concerned agreed charges should be made just the same as any freight rate is made. On any competitive traffic the railways agree on what the rates should be, and if there is any difference of opinion between the railways, any individual railway has a right to take independent action.
- Q. But you say a carrier of another class, for example steamships, should not be able to come in and object to an agreed charge made by the railways, because of the effect that it might have on their business?
- A. Well, I am putting it to you this way, that a competitive form of transportation should look after itseff.

THE CHAIRMAN: Q. A what? A

- A. A competitive form of transportation should look after itself.
 - Q. I see that. The way I look at this section now,

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a steamship company itself might make an agreed charge with a shipper?

- A. They can, yes, sir.
- Q. And they have to go through the same giving of notice as you have to?
 - A. Yes, sir.
- Q. And then in such a case you as a carrier can appear and object?
 - A. We might, yes, sir.
 - Q. Has it ever happened?
 - A. No, sir.
- Q. Then if you do away with this necessity of giving notice and you put your agreed charges under the same procedure as your competitive rates, that would apply to steamship companies also. of course?
 - A. Oh, yes, sir.

MR COVERT: Q. Now, most of your agreed charges are, Mr. Jefferson, on basic commodities, are they not?

- A. On big commodities?
- Q. No; basic commodities?
- A. Well---
- Q. I am speaking of volume now.
- A. In volume?
- Q. Yes.
- A. Well, I don't know whether you would call refined.

 petroleum products a basic commodity or not; I would call

 it a manufactured product.
 - Q. You would call that a manufactured one?
- A. Yes. Now, you take lumber and forest products; well, that term of lumber and forest products is finished lumber.
 - Q. That is finished lumber?
 - A. Yes, sir. Petroleum, that is a manufactured pro-

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- duct. Petroleum products. Coal -- well, that is a different thing, and salt is a different thing. I mean, it is from the ground, it is not processed at all. I would not say that the commodities on which the agreed charges apply as shown on page 89 of our Part I could be considered as applying only to basic commodities in volume.
- Q. I just wanted to find out if it did apply mostly to basic commodities, and you say no?
 - A. I would say no.
- Q. And would you say that they applied generally to low value commodities?
 - A. I would not say that either.
 - Q. You would not say that either?
 - A. No, sir.
 - Q. You would say they cover generally a broad field?
- A. Yes, sir; but I think that is proven from the fact that our earnings from agreed charges are as high as they are.
 - Q. You say that they are compensatory?
 - A. Yes, sir.
- Q. Now, that is all I have to ask you about agreed charges, Mr. Jefferson. I just wanted to deal with a few questions about the Board of Transport Commissioners, and I thought you might be helpful to us.

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- Now, I presume that over the years you have had quite a bit to do with them?
 - A. I suppose so.
- Q. Would you care to express an opinion as to whether or not they have a sufficient and proper staff?
 - A. A sufficient and proper staff?
 - Q. . Yes?
 - A. To carry out --
- Yes, I mean properly staffed. I do not mean as to an individual good man for the job, but have they a proper type of staff and a proper number of experts necessary to administer the duties under that Act, in your opinion?
- A. Well, I do not feel I could speak except as to the department of the Board that is represented by the traffic department.
- Q. Yes. Just dealing with the traffic department, so far as you are concerned; do you think they have a sufficiently large staff of experts to deal with the matters they are called upon to deal with?
- A. I think they have sufficient staff to carry out the provisions of the Railway Act as it is today, yes.
 - Q. You do?
- A. I do not suppose there is any organization which thinks it has enough, a large enough number of employees.

I do not suppose we have an office on the system which would not like me to authorize some more employees for their staff. They would like to increase their staff.

So it might that the Board's Traffic Department could do with more help. But I think that department is being efficiently administered.

Q. You feel that it is being efficiently administered

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today?

- A. Yes sir.
- Q. I suppose that would be true, certainly from 1927 to 1946?
 - A. Yes sir.
- Q. And the duties of that department would be much less onerous then than they are, let us say, today, or have been during the past few years?
 - A. That is right.
- Q. And which they will be during the period when it is necessary to carry out a general freight rate investigation?
 - A. They might well need more staff at that time.
- Q. Yes. Now, would you care to express an opinion as to what you feel should be the duties of the traffic department of the Board of Transport Commissioners?
 - A. What should be their duties?
 - Q. Yes.
 - A. No, I do not.
 - Q. You would not like to do that?
 - A. No sir.
- Q. You do not think, for example, that they should be in a position to compile information or statistics on what the effect, for example, of a horizontal increase was upon industry, generally?
- A. Well, they might make a study of it in some way. But my thought in matters of that kind, whether it is a horizontal increase or what not, I do not think the Board -- and I do not want to be considered as saying it caustically at all -- but I do not think the Board is equipped, or could be equipped with the knowledge that railway men get all over the country. We have to try to know something about everybody's business and, perhaps, not too much about

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any one party's business.

- I gather from the evidence which you gave, perhaps from the brief which has been filed, you feel that the railways are much better equipped to handle matters of that kind than the Board of Transport Commissioners are?
- A. Yes sir, because we are men in the field. We are with the public every day in the week and every month of the year.
- Q. Then what I do suggest to you, perhaps, along that line, is that it is conceivable, I suppose, that the men in the railway must think first of the railway?
 - A. Naturally! It is only human nature.
- Q. I suppose one of the reasons which makes you such a valued employee is that your first thoughts are of the railway?
- A. You might be surprised, sometimes, if you saw some of the letters we get from our men saying that they think that so and so should have a reduction in rates, but we might not agree with them.
- Q. Yes. But there is a possibility that the thinking of railway employees along lines of that kind would naturally be biased. I assume that is a fair statement?
- A. I would think they would be loyal to the party they got their cheques from.
- Q. Yes; and after a good many years with the railway company, you think in terms of railway revenue. You must?
 - A. Oh yes, but do not think --
- Q. All I am saying is that it may be that the Board should have a staff which would, perhaps, be in a position of a sort of referee to test your views?
 - A. I don't want you, to have the idea that railway

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representatives think only of the railway, because that is not the way to develop traffic.

- Q. Oh, he must think of business, or, as you tell me, he would not get any business for the railway?
 - Certainly.
- That is an indirect method of thinking for the railway.
- A. Quite so. But the railway will not be successful if its employees or officers are going to be so strict and rigid that they are only going to think of themselves.
- Q. Can you come to my point about the possibility that the Board of Transport Commissioners should at least have a staff which would be in a position, perhaps, to act as a referee between the shipper and the railway?
 - Well, that is what they are today. A .
 - Yes. They are, if they are qualified, perhaps.
 - A . Yes sir.
- Q. You would agree that it would not be of much use to put a man on the ice as a referee of a hockey match if he did not know the game?
 - A. That is right.
- Q. All I am asking you is: Do you think the traffic department of the Board of Transport Commissioners has, over the years, been in a position to act as a referee between the shipper and the railway?

I think you would admit frankly that it would be impossible for them to have the knowledge which the men in the railways have?

- A. I think they have had a staff that has been satisfactory to act as a referee between the railways and the shippers.
- Q. Yes; and you think that with all the problems which are coming up now they have a sufficient staff of experts?

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- I won't say in anticipation of what might come before them within the next five years that they have a sufficiently large staff to deal with all the problems. They may have to increase their staff. But I am sure that when the time comes when they may need an increased staff, they will apply for it.
- Q. You really feel, with respect to the Board of Transport Commissioners, that, generally, its duties should not be increased, its duties and powers?
 - A . Should not be increased?
 - Q, Yes?
 - I do not think it needs to be increased, no. Α.
- So generally speaking you would leave everything, just as it is today?
 - A. Yes. I think it is all right today.

The present system has stood the test of time, and the making of freight rates is where it belongs, with the railways.

If we should do something which the public does not like, the public has the right to make a complaint and it can be heard and decided upon.

I do not think that a store, or anybody else, would want someone to make their prices. Thus we want to make our prices, in the same way that industry makes its prices. But we are a regulated body, and if anybody doesn't like the prices we make, he has the right to complain, and the right to a hearing.

- Q. For example, when a question comes up, such as the question of the effect of horizontal increases, as it did in the 30% case, I think, on two occasions in that judgment, the Board of Transport Commissioners stated that they did not have traffic statistics.
 - A. In what judgment?

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- Q. In the 30% case? No, in the 21% case.
- I do not know.
- I think it is on page 65. Q.

THE CHAIRMAN: Of what?

MR. COVERT: Page 65 of the 21% case, where, in the middle of the second paragraph on that page, the Chief Commissioner said:

> "One difficulty with respect to the adoption of a varying or maximum increase is apparent, namely, the lack of reliable traffic statistics from which to determine the additional revenue which would accrue from flat or maximum increases on particular commodities. Further there is not on the record anything to enable any cotormination concerning the commodities and sections of the country and even the individual rates which could best bear the burden of an increase."

Do you think that the Board of Transport Commissioners, perhaps, should not have that information?

- A. I think that there they are speaking about the railways more than about themselves.
 - Q. Let us not guess about it.
- A. Just a minute. The railways took the position as I said in my evidence: that they themselves could not determine what the yield would be from a percentage increase in freight rates with a whole lot of maximas.

We would not know how much revenue we could obtain from an increase if we adopted such a method of increasing rates.

The Board has not any facilities that the railways have not got. The Board would have to get its information from the railways.

Whether the Board will develop some system for

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obtaining information of that kind from its technical staff which it now has -- that is something -- that is another matter.

- Q. Do you suggest, Mr. Jefferson, that statistics of this kind can never be obtained?
- A. There is no end of statistics that you might have.

 But they cost money. costs money to get statistics.

If you are going to have all kinds of statistics to show how much volume of every commodity you had, and to show the distance it travelled, and all that sort of thing which would be necessary to determine, or to make a decision along the lines referred to in that paragraph which you have just read, it would be a big task.

- Q. Well now, it might be, conceivably, of advantage to the railways not to have statistics of that kind, because it is much easier, is it not, to put in a straight horizontal percentage increase? Much easier for the rail-ways?
- A. We do not purposely not have statistics for that reason.
- Q. I do not say you do. But I say it might be advantageous not to have them.
 - A. It might be.
- Q. Yes. As a matter of fact, I might even go so far as to say that the less people can find out about rates on the railways, the easier it is for the railways.
- A. Well, I do not think you should approach it that way, because we certainly have no such purpose.
- Q. I ask you: It all leads up to this, and I just wanted your opinion on it. It all leads up to this:

 That apparently the Board of Transport Commissioners are at present unable to put themselves in a position, perhaps, where they can be a good referee. You say that is not

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easy? Easy to do?

- A. It would mean more expense to the Board and it would mean more expense to the railways to have statistics of that kind available.
- Q. And it might be that, in the final analysis, perhaps, they would be no good?
- A. I agree. It is like getting a little toy and not knowing what to do with it after you receive it. THE CHAIRMAN: We shall take a recess now.

(Page 16325 follows)

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- MR. COVERT: There were just one or two more questions on that same subject, Mr. Jefferson. I suppose you are pretty familiar with the situation in the United States in the Interstate Commerce Commission?
 - A. Yes, sir, fairly so.
- Q. And would you say, that the Board of Transport Commissioners is as well equipped for the same purposes, that is for statistics and so on, traffic statistics, as they?
- A. I cannot say that, no, because the Interstate Commerce Commission has an enormous organization.
 - Q. I mean proportionately?
- A. Well, I don't know if our Board of Transport Commissioners has a staff proportionate to the Interstate Commerce Commission having regard to the volume of traffic in the United States. I would not know.
- Q. I suppose it is fair to say that the Board of Transport Commissioners, in Canada, in your view, would be as fair and impartial to the shipper as they are to the railway?
- A. I would say so. I think that has been demonstrated over the years.
- Q. And on that same question, I think perhaps it is fair to state that the Interstate Commerce Commission has found themselves on occasion lacking in traffic statistics in dealing with, for instance, horizontal increases as they have in Canada?
- A. I would say so. I am speaking now from the point of view of the railway. They have a larger break-down in their classifications than we have in this country.

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- Q. Now, the next subject I wanted to deal with, was the classifications?
 - A. The classification itself?
 - Q. Yes.
 - A. That is the freight classification?
- Q. Yes. Now, under your equalization plan, the Canadian Pacific Railway proposes a continuation of the ten classes in the classification?
 - A. That would be right, yes, sir.
- And you are proposing, I think, a relationship between these ten classes. For example, the second class would be 85% of the first class and so on?
- A. Under the pattern that I outlined in my evidence, yes, sir.
- Q. Now, you have no doubt made a study of the changes being made in the United States?
 - A. Yes, sir.
- Q. My understanding is, that in the United States they are working on a system now, to have a much larger number of classes. Is that information correct?
- A. Yes, sir. You must bear in mind, that in the United States they have what they call a consolidated classification, but it is only consolidated as to rules. So far as the classification ratings are concerned, they have three territories; they have the Official Classification Territory, Western Classification Territory and Southern Classification Territory. They have one or two other minor ones but we won't deal with those.

Now, they have been working for years on a classification that will be one classification for all goods throughout the United States. We have that in Canada

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today. We only have one classification in this country.

Now, in their proposed new scheme of things in the United States with one classification for all Territories and a new suggested class rate scale east of the Rocky Mountains which I gave evidence on which they would hope to fit into the territory west of the Rocky Mountains, they hope to have more classes and less commodity rates.

- Q. Now, do you think that there is anything to be garnered from the experience that they have had in the United States that would be of benefit to Canada in that respect?
- A. I don't know; it would take years to accomplish.
- Q. It is your proposal that you continue with the ten classes. Is that because it is simpler?
- A. I would think as a first step in equalization of rates in Canada, it should be an attempt to equalize class rates with the use of the present classification and commodity mileage rates and specific or special commodity rates where they are related to a mileage scale.
- Q. Then, with your system of ten classes and each class related by percentage to another class -
 - A. Percentage on first.
 - Q. Percentage of the first class?
 - A. Yes.
- Q. That would enable you, I suppose, over a period, to perhaps enlarge the number of classes?
- A. It could be well fitted into the pattern, yes, sir.
 - Q. And the idea, I presume, is to eventually get

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as many rates on the class rates and eliminate the commodity rates. That is it, is it? Is that the idea?

- A. That might be a later possibility, but you cannot do all these things at once.
- Q. No. Now, I suppose the limitation to a small number of classes does make it more difficult to bring about a proper relation between the rates of various goods because you must have a large number of goods in each class. Is that correct?
- A. Well, I will answer you this way, that so far as the traffic movement in Canada and in the United States is concerned which customarily moves at class rates, I would not say there is much difference in their classification and our classification, having regard to the pattern we are proposing, but when you try to fit into that pattern of class rates, grain and grain products or something that always moves at a commodity rate, that is an entirely different thing. It is trying to get all commodities, whether grain or lumber or what, into a column, you could call it, or a class and number that will fit into that pattern and do away with the commodity tariffs.
 - Q. That is what creates the difficulty, is it?
- A. Oh, yes, and I don't know how they are going to work it all out without a dislocation of industry. I don't know. That is something that remains to be seen. My belief is it is a long way off yet.
- Q. My understanding is that when the uniform classification containing ten classes was adopted, in, I think, January 1, 1884, that this classification was largely a compromise between the various railway companies

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in Canada, and that the rating on which the largest amount of traffic was moving was generally adopted as the basis for rating in the new classification then prepared?

- A. Well, I would not want to say yes or no to that. It may be right; I don't know.
- Q. I was wondering if you had made a study. That was my understanding: in other words, the class under which most of the goods was moving in the independent class field was the one that was generally adopted so that it might be said that what the railways were doing at that time was adopting a classification under which most of the goods would move freely at that time?
- A. I don't know that I would say we had ten classes back in 1884.
- Q. My understanding is that that is when it was first brought about?
- A. We might have had five or six classes back in the early days and then grain might have had another rate and lumber another and livestock another and then they were later fitted into the classification. After all we had our six classes eighth class grain and grain products largely, ninth class livestock, and tenth class, we will say, rough freight.
- Q. What I was going to suggest was, that if that were true (but perhaps you have expressed no opinion on it) if that were true, if the railways had stuck too closely to that, when conditions had changed perhaps an entirely new manner of classifying the goods should be arrived at, but I believe you suggested that that perhaps would upset industry too much?
 - A. It might, and I will go back to what I said



this morning, it might if you had lumber at a ninth class rate and you would not depart from it, it might hurt the far away man shipping lumber to get to the long distance market.

- Q. Can I perhaps sum it up this way, that you feel that that which already can be garnered from the United States experience is that our classification has been in for such a long period of time that we must more or less stick to what we have?
- A. Well, I will answer you this way, that I think that for the time being we should stick to what we have. It is going to take a long time to effect an equalization scheme that will be satisfactory to everybody in this country. It won't be done in five minutes, and I imagine there will be a lot of objection whenever the scheme is ever finalized to a point where some definite suggestion can be made. I think that to go farther than that, we should wait and see how it works out in the United States. It has not been completed there yet, and it may not be for another two years or more; I don't know. They want to finish it; they are being pressed by the Interstate Commerce Commission to finish it, but it does not show any signs of completion at the present time.
- Q. Now, the next subject I wanted to deal with, Mr. Jefferson, was competitive rates?
 - A. Yes, sir.
- Q. Now, my understanding is that the Canadian Pacific, for the reasons set out in your Brief and also in your evidence, feels very strongly that the railways should have complete freedom in fixing competitive rates, that business is in favour of this and that you would not

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change the situation as it presently exists one iota both in Canada and under the practices and decisions of the Board of Transport Commissioners?

A. That is right. I say there is little use in locking the stable door after the horse has been stolen.

THE CHAIRMAN: What did you say?

MR. COVERT: He said there was little use in locking the stable door after the horse had been stolen.

THE CHAIRMAN: That is rather criptic. I don't see the application.

MR. COVERT: I think perhaps I can ask Mr. Jefferson the application. I think perhaps he means that if you cannot lower the competitive rate to meet the competitive conditions, that you may be too late.

THE WITNESS: You have got to act quickly. You can't wait. If we are going to be tied down with any form of legislation that we cannot have some freedom and be able to act quickly, why the business is gone.

- Q. Now, you have seen Mr. Frawley's suggestions, or of Alberta's suggestions, which I believe the Canadian Pacific says about that apart from the one thing, that they must have the approval of the Board first, the Canadian Pacific says:- "Well, all of Mr. Frawley's conditions are in fact carried out by the Board now" and that the Board does see, for example, that they are compensatory. I think it is a pretty fair statement that you and Alberta are not very far apart except on that one point, that Alberta says before the competitive rate is put in, the Board must make all these examinations?
 - A. I would say that would be an impossible situation.

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- Q. Yes, I understand that. Then perhaps there is one other further little difference between you on the question of actual and potential competition. Alberta says that there must be actual and compelling competition, and you say potential competition, and perhaps you are not far apart there, if you could get together on what the meaning of potential competition is.
- A. There again, if you cannot act on potential competition and the business is gone, how are you going to act when you have got actual competition? You are too late.
- Q. But the real point that I want to discuss with you is, I think Alberta in effect says here there are certain rules; it must be compensatory, you must be sure that the railways gain and do not lose by putting in a competitive rate. Now you say that we, the railways, look after that; Alberta says they want the Board of Transport Commissioners to make sure that you do?
 - A. Yes, sir.
- Q. And you say in effect that it is in the railway's interest, therefore it is not necessary for the Board of Transport Commissioners?
- A. We say it is not necessary for the Board of Transport Commissioners to intercede unless someone makes a complaint.
- Q. What I wanted to put to you was this: You say that you use rule-of-thumb methods to determine, for instance, whether or not a rate is compensatory?
 - A. If you want to term it rule-of-thumb, yes, sir.
- Q. Yes. I mean the per car mile revenue, the per ton mile revenue, and I think you mentioned six or seven tests?
 - A. Yes.
- Q. Now, what I want to put to you is, why could not the Board of Transport Commissioners be put in a position

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so that they could apply those tests as well as the rail-ways could, leaving apart for the moment -- supposing, Mr. Jefferson, that the law was not changed in so far as your having the right to put in the rate is concerned, but coming to the Board of Transport Commissioners checking it, why should not they be in a position to check that just as well as the railways themselves?

- A. I suppose they are in that position today.
 - Q. You think they are?
- A. What I was objecting to was the prior approval of the Board.
- Q. Well, haven't you felt that as a result of the hearings perhaps in the revenue cases and before this Commission, the real fear is that the railways are not watching to see whether or not the rates are compensatory, and that the people who are suggesting these different methods of dealing with compensatory rates are really afraid that the railways are putting in rates that are not compensatory in order to make sure that they hold the business and that the truckers do not get the business once and for all?
- A. I would not want to think that any representative of the Canadian Pacific, or for that matter any railway, would publish, would knowingly publish, competitive rates that it did not think it was going to make some money out of.
- Q. Well, I think you have made that position clear, and I think Mr. Walker did; but my point is, don't you feel that that is the position of the provinces who have been talking about your competitive rates, that they fear that the railways have perhaps not watched these competitive rates closely enough, and that therefore the Board should watch them?
- A. They may fear that, but they have not shown that we have. Now, if they think we have, they have got a right

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to complain to the Board, and the Board has got to study the facts and decide.

- Q. I suppose, Mr. Jefferson, it would be pretty hard for a shipper we will say in Alberta to complain of a competitive rate in Quebec, that it was too low; there would not be much advantage in him looking at one particular rate and trying to prove that that was too low. You are not apt to get that kind of complaint. But if the mass of competitive rates were at any time too low, then the shipper in Alberta might be affected, because he has to pay more revenue to make up the revenue of the railways on other rates.
- A. There is one thing you must bear in mind, that, as you say, a mass of competitive rates -- we will admit that there are a mass of competitive rates, but don't forget that they are all made one by one; each one is studied before it is published. We do not publish them en masse.
 - Q. That is right.
- A. They are all considered separately, every one of them. Now, I do think that there should be sufficient confidence in railway management that they would not deliberately go out and throw away money and make competitive rates lower than was necessary, or lower than what in their opinion would give them some return.
- Q. Well, Mr. Jefferson, I will put it to you this way:
 You might at times be prepared to, as you call it, throw
 away money if you felt that sometime in the future you would
 get that money back; you might put in a low rate, Mr.

 Jefferson, to hold traffic in the hope that truck competition would not become so active that it would get that
 traffic :once and for all?
 - A. Well, I don't know that I could prophesy that.
 - Q. You say you have not done it?

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-16338- Mr. Jefferson

- A. No, sir; we do not go out---
- Q. My point is that apparently---
- A. We do not go out, Mr. Covert, and buy business by any such method as that. We make each rate as we think it should be made.
- Q. Now, you have suggested that they should have confidence in you, and I am suggesting that perhaps the hearings have shown that they have not confidence in the railways, and that is why they are suggesting that the Board of Transport Commissioners should apply these rules of thumb and not just the railways. Now, what I am asking you is, could there be any objection to that?
- A. If the Board wants to apply these tests or any test to rates after we publish them, that is something they can do any day in the week.
 - Q. Yes; now, do you think they should?
- A. Personally I do not think they should be required to. I do not think they should be required to except on complaint. They do not do it in the United States; it is not one of the duties of the Interstate Commerce Commission to take the hundreds and thousands of tariffs that are filed there every day in the year, to find out if every rate in the tariff is compensatory. They do not do that over in that country; why should you have to do it here?
- Q. Do you say the situation is the same in the United States as it is here as far as competitive rates are concerned?
 - A. Just the same.
- Q. Now, you say that you do make each competitive rate individually?
 - A. Yes, sir.
- Q. And in the case then of each competitive rate you do apply these tests?

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- A. Yes, sir.
- Q. Now, you would not apply all the tests, as I think I understand your evidence. For instance, if you find that the per car mile revenue from a particular rate which you propose to put in yields you above the system average or close to it, then perhaps you do not apply the other tests?
 - A. The other tests?
 - Q. Yes; for instance, the per ton mile revenue test?
 - A. Oh, we look at both.
 - Q. You look at both; in all competitive rates?
- A. I would say this to you, that I do not believe you could go into our offices where freight rates are made that you would not find statements showing the commodity, the point of origin, the destination, the proposed minimum rate, and the rate, what it would per car, per ton mile, what it would yield per car and per car mile.
 - Q. That is every competitive rate?
 - A. Yes, sir; I do not believe you would find any.
- Q. Right. Now, if the per car mile revenue and/or the per ton mile revenue were about equal to the system average, then you say the railway treats that as probably a compensatory rate?
- A. If we are satisfied that there is a necessity for the rate. First we must establish---

THE CHAIRMAN: Q. If what?

- A. First we must establish that there is a necessity for the rate which we have in mind publishing; that is the first essential. We do not just apply a test to something, to a rate that someone comes in and says, "I want this rate published to move some traffic." We do not do that.
 - Q. No, I understand that.
 - A. First we find out if there is any necessity for

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that rate; then if there is a necessity for that rate, then we apply our tests to it.

- Q. That is right; and if the test works out satisfactorily, then you put it in?
 - A. Yes, sir.
- Q. I suppose the word "necessity" there means necessity to meet competition?
 - A. Yes, sir.

MR COVERT: Q. Then if you find that perhaps the per car mile revenue is low, lower than the system average, then you look and see whether the per ton mile revenue is perhaps higher than the system average?

- A. Yes, sir.
- Q. And if it is you may still put in the rate, even though the per car mile revenue is lower than the system average?
 - A. That is right.
- Q. and if both the per ton mile revenue and the per car mile revenue are low, then you may look at some other tests; is that not right?
 - A. It depends---
 - Q. Or you may decide not to put it in?
- A. That is right. We have got to bear in mind the other conditions -- how much below it is.
- Q. And if it is substantially below, you might still put it in if there were some other reasons, for example if there was some return traffic the other way that you would not otherwise get?
- A. You might do that, yes; but I still say that you would not put the rate in in either direction if you felt that it was non-compensatory under the tests.
- Q. Now, you say the railways have all this information; would there be any objection to them filing that with the

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Board of Transport Commissioners so that they could be satisfied that these rates were compensatory?

- A. I think it would be a tremendous job for every tariff you are publishing every day in the week. We have got to differentiate between competitive rates and normal rates.
 - Q. Yes; I am talking about the competitive rates.
 - A. Just competitive rates?
 - Q. Yes.
- A. All right. Now, the competitive rates, you may have a rate from one point to another or from one point to a dozen points, we will say, but where you have got a general scale of competitive rates you of course would not apply the tests to every one of them; you would apply the tests to so many.
- Q. What you say is, if it works all right between A and B, it will work out all right between A and C?
- A. Yes, but we make more than one test. But I would say it would be a big job to furnish that information that you suggest to the Board every time we publish a competitive rate.
- Q. What you say is this, Mr. Jefferson: Supposing the railway when it put in one of these rates -- you say you always make these tests, they are put in individually -- would it be difficult to advise the Board of Transport Commissioners that you have applied the tests and that you have found that the tests proved that the rate is compensatory?
- A. No, sir. I say that all that is necessary is the system you have today, that you are left free to publish these rates, the railways are left free to publish these rates to meet competitive conditions, and on complaint the information can always be obtained.

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- Q. Now, tell me this: Supposing a shipper in Alberta does feel that the competitive rates in Ontario are low, that they are not compensatory, can he go to anyone in the Canadian Pacific and say, "Now, here, I don't want to go and file a complaint with the Board, but I would like to see whether these rates are compensatory"?
- A. He could come to us, yes. He could figure it out for himself, for that matter.
 - Q. Beg pardon?
 - A. He could figure it out himself, for that matter.
 - Q. He could?
 - A. Oh, yes.
- Q. Oh, I don't think any shipper surely would be able to, would he, Mr. Jefferson? All I want to find out is, is the information there available, for instance, for Mr. Frawley if he wants it?
 - A. Yes.
- Q. He can come along to the Canadian Pacific and say, "Here, I want to find out if such-and-such a rate is compensatory," and you have applied the tests and you will give him that information?
- A. We will be glad to discuss the matter with Mr. Frawley or anyone else in his province.
- Q. I do not think you meant to be evasive about discussion; I mean, can he get the information?
- A. Yes, sir; we will give him such information as he needs to make his tests.
- Q. No, but won't you show him the result of your tests?
 - A. Show him the result?
 - Q. Yes; would you show him that they have produced---
 - A. On any specific rate.
 - Q. You would?

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A. Yes.

COMMISSIONER ANGUS: Q. Do you think the possible commodity loss on any one specific: could make any significant difference to the general freight level?

- A. I would not think so, no, sir; I would not think it could.
- Q. In that case would any other shipper except one concerned with exactly the same commodity have an interest in challenging it?
- A. I would not think so, no. I think your challenge would come largely from a shipper shipping the same goods.

COMMISSIONER INNIS: Q. As a matter of information, does the I.C.C. require three days' notice on the lowering of rates, as is the case with the Board of Transport Commissioners?

A. No, sir. The Interstate Commerce Commission require all freight rates, whether reductions or increases, to be published on thirty days' statutory notice, unless a special application or an application is made by a railway that wants to publish a rate, on less than statutory notice, and he gets special permission from the Interstate Commerce Commission to do so.

MR COVERT: Q. But there is a difference, I think, isn't there, Mr. Jefferson, in that in Canada -- for instance, if you are increasing the rate you must apply to the Board for approval of that increase?

- A. No, sir.
- Q. You do not have to?
- A. No, sir.
- Q. Just file it -- thirty days?
- A. Thirty days! notice.
- Q. Well, is there any difference here than in the United States in that respect?

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A. Not with respect to increases, but the Railway Act in Canada provides that reductions in rates can be published on three days' notice, but increases on thirty days' notice.

THE CHAIRMAN: We will adjourn now.

---The Commission adjourned at 4:45 p.m., to meet again on Friday, February 24, 1950, at 10:30 a.m.



ROYAL COMMISSION ON TRANSPORTATION

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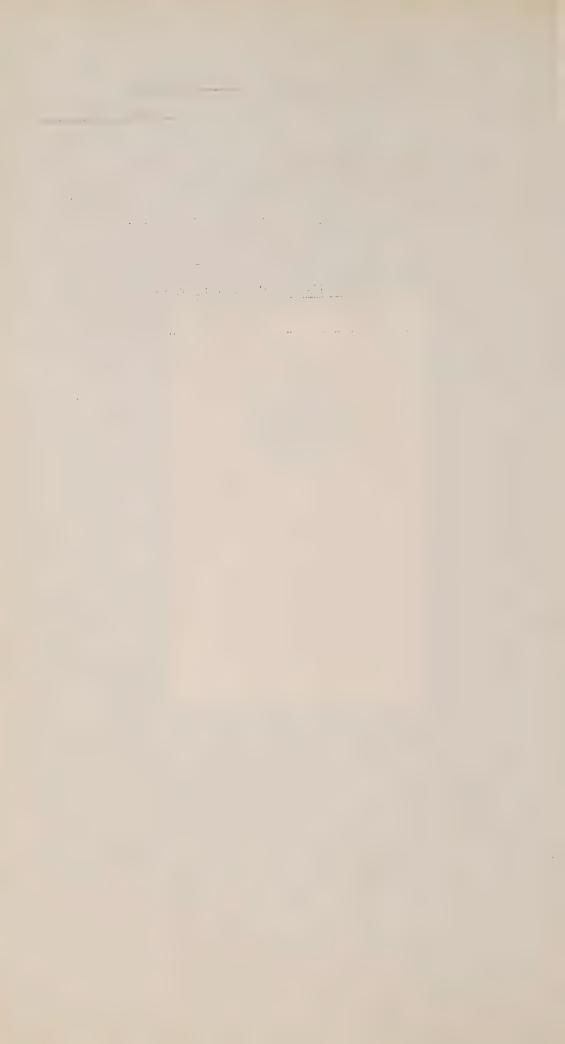
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ROYAL COMMISSION ON TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO FRIDAY FEBRUARY 24, 1950.

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

G.R. Hunter Secretary

P.L. Belcourt Asst. Secretary

COUNSEL APPEARING:-

F.M. Cove G. C. Des	ert, K.C. smarais, K.C.	}		mmission on asportation
H.E. O'Do H.C. Frie A.H. Hart		}	Canadian	National Railways
	erson, K.C. vans, K.C. clair	}	Canadian	Pacific Railway
C.D. Shep	pard)	Province	of Manitoba
M.A. MacF	herson, K.C.)	Province	of Saskatchewan
J.J. Fraw	ley, K.C.)	Province	of Alberta
F.D. Smit	h, K.C.	}	Transport	of Nova Scotia; ation Commission ritime Board of
J. Paul B	arry)	Province	of New Brunswick
C.W. Braz	ier	}	Province Columbia	of British
F.R. Hume M.L. Rapo		}		Automotive Trans- Association

Art great

Ottawa, Ontario, Friday, February 24, 1950

MORNING SESSION

--- The commission met at 10.30 a.m.

C. E. JEFFERSON, RECALLED

MR. COVERT: Mr. Chairman, when I was examining Mr. Jefferson yesterday I think I intimated that as far as competitive rates were concerned, that Alberta wanted them approved by the Board before they were put into effect. I do not think that is correct, and I just make that announcement because, in view of the line of examination, I do not think it made any difference; I dealt with it with Mr. Jefferson by suggesting that he forget that point, or leave that point aside, but I did want to put the explanation on the record.

THE CHAIRMAN: You say that Alberta does not go that far?

MR. COVERT: I think that is correct.

THE CHAIRMAN: Does anybody go that far?

MR. COVERT: Yes, I think that is so.

THE CHAIRMAN: I thought it was.

MR. COVERT: I think in British Columbia we had a submission that there should be prior approval.

THE CHAIRMAN: Those who do go as far as that, how far beyond the present procedure do they go?

MR. COVERT: I think in most cases, Mr. Chairman, it is a case of whether or not certain tests should be applied by the Board, as to whether they are compensatory, whether or not the putting in of competitive rates do improve the position of the railway, and so on.

THE CHAIRMAN: In the meantime I am talking of those who are critical of the procedure. In the

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meantime would the rate go into effect? As I understand it now it would go into effect immediately.

MR. COVERT: Yes.

THE CHAIRMAN: I thought that some were advocating withholding the effectiveness of the rate until the Board had first approved of it?

MR. COVERT: That is correct.

THE CHAIRMAN: But you say nobody seems to have gone that far?

MR. COVERT: I think people have gone that far before.

MR. EVANS: The Manitoba Federation of Agriculture, the Manitoba Co-operative Wholesale Limited and the Province of British Columbia -- that is shown in our brief.

THE CHAIRMAN: Those two?

MR. EVANS: Those are the three.

THE CHAIRMAN: Take for instance the case of Alberta, I should like to know if Mr. Frawley can tell us later on how far they are critical of the present procedure of putting competitive rates into effect.

MR. COVERT: My understanding is that he is not critical at all of putting them into effect, but he wants them subject to continuous examination by the Board.

MR. EVANS: I think perhaps it is only fair to say that he wanted a prior application for the fourth section · relief; that of course involves in a great many cases a prior application; the fourth section relief is this so-called long and short haul discrimination. If competitive rates are made applicable to a intermediate points it would involve/substantial amount of prior applications.

THE CHAIRMAN: That seems to me to be the case.

MR. COVERT: That would follow, Mr. Chairman,

and the state of t the standard of the tenth of the second fire all very notice of the members of states and states if the same principles were applied to all competitive rates as were applied to transcontinental rates. I think the position of the Canadian Pacific is that if you apply the transcontinental rate you would have to apply it to all competitive rates.

THE CHAIRMAN: I did not hear you, Mr. Covert.

MR. COVERT: I say that my understanding is that the Canadian Pacific says that if you apply the transcontinental rate it must of necessity apply to all competitive rates.

MR. EVANS: I think that is almost inevitable. If you applied it only to transcontinental rates, it would be pretty difficult to justify.

THE CHAIRMAN: I am glad the question was raised, because I am under the impression that there is an appeal to us to deal with the question of rates not becoming effective until first approved by the Board. At some later stage we would like to know definitely the position of the various parties in that respect, and how far those who are interested in the procedure wish to go.

MR. COVERT: Yes.

EXAMINATION BY MR. COVERT (Cont'd)

- Q. Mr. Jefferson, there were two more questions I had to ask you with respect to competitive rates. The first is, I understand you do agree with the proposition that if the competitive rates were unduly low under the present system of rate making in Canada, other shippers must make up the difference, the same as your argument applies in the case of the Crows Nest rates?
- A. Are you speaking now from the point of view of if we made/competitive rate that is non-compensatory or slightly compensatory?
 - Q. I think I used the phrase "unduly low". Perhaps

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that is not a clear expression. Let us put it this way: if the rates are such that when compared with rates in other territories, other regions or areas, for the same service -- that is the same type of shipper and so on -that in effect the other shippers are perhaps bearing a greater burden than they would if these competitive rates were not what I call unduly low?

- A. Mr. Covert, I would say this, that just so long as we make competitive rates that pay something more than the out-of-pocket cost, it is no burden on the other shippers, but if we made a competitive rate below the out-of-pocket cost, then it would be a burden on other shippers.
- Q. I will put it to you this way, then: if you did put in, or have in effect, competitive rates that are below the out-of-pocket cost -- that is the phrase you want to use?
 - A. Yes, sir.
- Q. Then it would be fair to say that other shippers must make up the difference?
- That is correct. We try not to make them below the non-compensatory basis.
 - Your point is that the railway does not do that?
 - That is right.
- But I say that perhaps some other railways do it --I am not suggesting that any particular railway does it --
 - No. sir.
- But if railways did, would you not agree that that would be a reason why there should be close supervision over those competitive rates, because of the possibility that the railways could do that?
- There is a possibility, yes, but I don't think they would. I wouldn't think it is good management to do it.

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- Q. You say there is a probability --
- A. No, there is not.
- Perhaps the management of the railways will not continue to be as good as it is now?
 - Then they had better change the management.
- You do not think there should be some protective pvovision in the Railway Act that would ensure that that possibility should be watched?
- A. I don't think so, because I don't think that anyone in the railroad business would have an incentive to do business; they want a profit just the same as any industry wants to do business at a profit.
- Well, Mr. Jefferson, let me put it to you this way: suppose that provision had been made in the Railway Act during the time that these rates were frozen, and you could go to the Board of Transport Commissioners and establish to their satisfaction that these rates were non-compensatory during the period that they were frozen, during the war or immediately afterwards; would you not have been in a stronger position perhaps to have that part of the Order unfrozen?
 - A. I don't think --
- You don't think that would have made any difference?
- Q. I don't think that would have been the result in practice. I think the railways could have gone to the Board during the time of the price control and shown that many of its rates were too low, but I don't think that would have moved the Wartime Prices and Trade Board, because they weren't going to permit an increase in any rates.
- Q. Even though the railways were in a position to show that they were perhaps in some cases highly noncompensatory?

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- A. That is right; I don't think they would approve it.
- Q. There was one further question I wished to ask you. I understand there was a tariff of competitive rates filed by the railway on February 1,1950?
 - A This year?
 - Q. It came into effect February 1st.
- A. You are speaking of that pick-up and delivery paragraph we were talking about the other day?
 - Q. Has that been filed as an exhibit with us?
 - A. Not that I know of.
 - Q. That was a supplement?
 - A. Yes, sir.
- Q. I wondered if you could give us a few particulars, on that?
- A. I explained that in my evidence the other day, I think, when Mr. MacPherson was cross-examining me.
 - Q. This same supplement?
 - A. Yes, sir.
 - Q. Then I won't bother you further with it.
- A. I explained what we had done in this supplement El351-A, the pick-up and delivery tariff.
- Q. Then I will not bother you further with it.

 Mr. Evans has called my attention to a point: perhaps you can tell us whether the railways did apply for or ask the Wartime Prices and Trade Board to increase the charges for ice? My understanding is that you had quite a long negotiation with them, and I think you satisfied them that your charges were actually less than your costs?
 - A. Yes, sir.
 - Q. You were able to do that?
 - A. That is right.
 - Q. And they refused to let you increase your charges?
 - A. That is correct, yes, sir, they did.

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- Q. It was a matter of \$8 against \$6?
- A. Not at that time; I have forgotten at the moment what **kk** charge for ice we asked for. At that time the cost of supplying ice was \$4/in all provinces except British Columbia, where it was \$5. Since that time the rates . . . those charges have been increased the 21 per cent and 8 per cent.

(Page 16353 follows)

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Incidentally, we have increased that again, but I don't know at the moment what charge we suggested when the Prices Board refused our application.

- Q. Now then, the next subject I wanted to discuss with you, Mr. Jefferson, was the Crow's Nest Pass rates. Now, my understanding is, and I want you to correct me if I'm wrong, that you have two main objections to the statutory control of these grain rates. The first is, that you say they are not compensatory or are unduly low and, therefore, other traffic must pay a higher rate than it should in order to enable the railways to obtain the necessary revenue?
 - A. Yes, sir.
- Q. And the other is, that the railways are simply not being properly paid for the services they perform and you combine with that the proposition that the wheat grower can afford to pay a higher rate because he is obtaining more money for his product?
 - A. Yes, sir.
- Q. Now, I assume that you would recognize that when rates such as these have been in effect for a period as long as fifty years except for the period after the First World War when there was a change - -
- A. That applies to the First War and a little time later.
- Q. That any sudden increase of a sizeable amount would be bound to be quite a shock to the producer?
 - A. It depends on the size, yes.
- Q. And it might be a severe shock if there were a drop in the price of wheat?

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- A. That might be, but I think you would have to face the condition as it is today.
- Q. And then, Mr. Jefferson, would you think that it would be perhaps a greater shock to people who are producing wheat in, say, areas of low yield than it would to perhaps the general average in which is perhaps included areas of high yield or average yield?
- A. I don't think anyone would deny the fact, that any farmer does not obtain more profit for what he produces if he has no yield or a small yield in comparison with the farmer who has a good yield.
- Now, would you agree, Mr. Jefferson, that the wheat grower in the Prairies is in perhaps a rather peculiar position in this way, that he owns his land and he cannot move it and he really cannot grow much except wheat there or grain?
- A. Well, I think, sir, you will agree that by and large in Western Canada today, they are producing more than - I will say grain (I won't confine myself to wheat) they are producing more than grain today. They are producing many commodities in the west.
- Q. I am talking now about the wheat farmer. Perhaps you are suggesting to me, Mr. Jefferson - I must confess I would not know whether you are right or wrong, but are you suggesting to me that the average wheat farmer in addition to producing wheat and grain produces something else like vegetables?
 - A. Produces livestock or poultry, or butter.
- Take in Saskatchewan, are there not just wheat farmers?
 - A. What I am trying to say to you, is that there

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are more mixed farmers in Western Canada today.

- Q. That there used to be?
- A. Yes, sir.
- Q. Well, take the position of the wheat farmer, and I presume there must be a large number of farmers who just raise wheat;
- A. Who produce nothing but wheat, yes. That may be; I am not denying that.
- Q. Well, take that class of farmer, the grain grower, he is in rather a tough position, is he not, in that, as I say, he cannot do much else with his land, and he is fixed there? He may sow a large crop and between the time that he sows and markets, conditions may change and there is nothing he can do about it in the meantime. Now, what I am suggesting is, that he does differ in that respect from perhaps the manufacturer who can guard his inventory, who can perhaps cut his employment, who can cut his advertising; in other words, he can take all kinds of precautions to change his position over the period that the wheat grower cannot do?
- A. To some extent, but every industry, whether he is a wheat grower or iron and steel manufacturer or a railway, they have all got to contend with the ups and downs of business.
- Q. I think that is true, but take your railway,
 Mr. Jefferson, You can cut maintenance and in good times
 there are certain things that you can do that in bad times
 you can cut down, but my point is, that the farmer may
 have planted his crop, expended all his money for fertilizer,
 getting ready and everything else, and then when he comes
 to market it the conditions may have completely changed.

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I just wanted to find out if you agreed?

- A. Take a depression year; the railways cannot cut all their costs.
 - Q. No, I agree.
- A. Any more than a farmer can cut his costs, we will say, if he has got a partial crop or no crop at all. I do not suppose we will ever see the day that the railways would not have some businessbut business can get to such a low ebb that you cannot make a profit.
- Q. Well, the Canadian Pacific Railway has experienced that?
 - A. Yes, sir.
- Q. My point is, would you then go this far, with me, that there is perhaps a difficulty in the case of the wheat farmer that the average business or industry does not have, because they are not in that same rigid position?
- A. I suppose if a farmer loses his entire crop from a drought or hail you might say he is up against it for a year until he can get another crop, but after all, that is a small percentage of the total unless you have got a complete crop failure, but today we are not experiencing such situations.
- Q. Well, I do not want to pursue that much further, Mr. Jefferson. What I was leading up to was whether you would recognize that the Prairie Provinces, or particularly perhaps Saskatchewan, that the expression "wheat economy" does appear to be pretty apt, the position of the Prairie Provinces, particularly Saskatchewan?
- A. Quite so, but if you analyze the railway tonnage in Saskatchewan you would not find it all wheat or

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- all grain. I cannot say offhand what it is, but it is in the Government Statistics.
- Q. Would you agree that if the wheat crop was a complete failure in Saskatchewan, that Saskatchewan generally would be in a pretty poor shape at the end of that year?
 - A. I agree with that; I am not looking to see it.
- Q. And you would agree also, I think Mr. Jefferson, that this so-called wheat economy is of great importance to the Dominion as a whole?
 - A. I would agree with that, yes, sir.
- Q. And have you ever noticed whether or not, Mr. Jefferson, that over the years, that generally speaking when the wheat crop has been large, and the market good that the Canadian Pacific Railway has had a good year?
 - A. Oh, yes, naturally.
- Q. I don't want to get into an argument about the examination conducted by Mr. MacPherson, because my understanding is that at one stage you did say that the matter would be left entirely to the Board of Transport Commissioners?
 - A. That is right.
- Q. And at one time you also said that you did not think the rates should be the same on grain in the west as they were in the Western States?
- A. I said we were not asking or suggesting that the rates in Western Canada should be as high as in the United States, yes, sir.
- Q. Then, on the other hand, I think Mr. MacPherson brought out that you thought that perhaps 40¢ from Regina to Fort William would perhaps not be too high?

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- A. Mr. MacPherson brought out the fact that if we took my exhibit, at page 104 I think of the Appendix to Part I, that if we used, I think it was, line 3 - -
- Q. I think perhaps the record is pretty clear on that.
- A. And if certain things had been done instaad of what had been done and we had applied to it, the 20% increase now being considered by the Board of Transport Commissioners - it is not line 3, it is line 2 the computation on line 2 would become 40¢.

THE CHAIRMAN: 14¢?

A. 40¢.

MR. COVERT: That is practically double the rate?

- A. Quite right.
- And conceivably that might be a fair rate, and perhaps even higher?
 - A. I think I said it would not be unreasonable.
- Q. Now, what I really wanted to ask you about, with that background, is, would you think that that would not be - to double the rates on that would not be a terrific shock to the so-called wheat economy?
- A. It would depend upon what the farmer gets for his wheat.
- It would depend entirely on what he got for his wheat?
 - A. Yes, sir.
 - If he was getting what he was getting today.
- I male the statement that if the farmer was getting over \$2.00 for his wheat, which I understand that is what he is yielding, over \$2.00 today, in comparison with

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what he was yielding at the time the Crew's Nest Pass rates were passed in 1898, that he could afford to pay more for the movement of his wheat now?

- Q. Could I put it this way, Mr. Jefferson, that if the wheat is \$2.00 wheat, you think that the Crow's Nest rates generally could be doubled?
- A. I say they can be increased, but I say the measure of the rate, whether it is going to be doubled or what it is going to be, is something for the Board of Transport Commissioners to determine.
- Q. I understand your position on that, but I just wanted to know if it is your feeling, that if there is \$2.00 wheat, could the rates be doubled now reasonably and not, to use the expression, be a shock to the wheat grower in the Prairie?
- A. Having regard to the increase in price that has taken place since 1898, it should not be a tremendous shock.
- Q. I see. Now, there was one question put to you and I just wanted to examine that/little more closely and that was, it was suggested to you I think it arose out of a discussion of the critical relationship between livestock and livestock products and the suggestion I think (I will try to put it as fairly as I can) was that you either had to raise one or lower the other and I think you said that you could not really raise the livestock rate to bring about this critical relationship?

 $$\operatorname{MR}.$$ EVANS: I don't think he said that, Mr. Covert.

THE WITNESS: I said that I did not think you

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could raise the livestock rate without a protest from the shippers in Alberta, but I did not think the livestock producers in Alberta would look upon an increase in the livestock rates with any favour. I further said the railways could not afford to reduce the rates on meats and packinghouse products.

- Q. Well now, perhaps I misunderstood, but according to the notes which I have made here, I have at page 15511 in Volume 77 that you said that the alternative of raising the rates on raw materials would be difficult because of serious disturbance to existing industry?
- A. Yes, sir. I do not want to say that the livestock rates cannot be raised, but I am sure the industry, if we increased the livestock rates, the livestock producers would say it was disturbing.
- Q. My point was, Mr. Jefferson, that it seemed to me that you might have been talking about something quite different when you were talking about raising or lowering the rates to bring about a critical relationship and I thought I understood your evidence on that, but it did seem to me at this particular place that you said it would be difficult because of the serious disturbance to existing industry. I wondered if perhaps the prices of livestock had not increased equally with the prices of wheat, whether or not the same considerations would not apply there?
- A. I do not know how livestock prices have increased in relation to wheat, because I have not made a study of livestock prices over a period of years, but I think we will all admit that livestock prices would be today much higher than they were, let us say, in 1939. They are much

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Q. Then, tell me this. Perhaps you want to change that? Perhaps you did not mean quite that, that "because of serious disturbance to existing industry?" I do not know, but that point struck me quite forcibly, the fact that you said you could not raise the rates on livestack because it would have caused serious disturbances to existing industry.

I will read you from page 15511:-

"It may be said here that the rates on low grade commodities in Canada are generally so low that it would be disastrous to the revenues of the railways, to reduce the rates on finished products to anything nearly approaching parity with the rates on raw materials. It follows as a practical matter, that the alternative would be to raise the rates on raw materials. If this were done, it would be difficult to make the changes in such a way that serious disturbance to existing industry could be avoided."

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Now, at the time I had taken from this, because you were discussing at the time this critical relationship on the raw and finished product, that you meant from that that you could not raise the rate on livestock because of serious disturbance to existing industry? Perhaps that is not what you meant?

- A. I thought we were talking -- this is the direct examination, this page.
 - Q. That is correct.
- A. Yes. We discussed it in direct and we discussed it in cross-examination, but I am not saying that the livestock rates could not be increased. We have shown in our submission that the livestock rates are low; they are very low.
- Q. They are low. Now, tell me this: Do you think, Mr. Jefferson, that they could be raised substantially?
- A. Personally I think the livestock rates could be raised, but what I was trying to emphasize was that they could not be raised without a protest from the producers.
- Q. You do not think, Mr. Jefferson, that you could raise the grain rates without a protest from the producers?

COMMISSIONER ANGUS: Q. I awas going to ask before that, if the livestock rates were raised by the 21 per cent---

- A. Yes, sir, quite right, but you understand--THE CHAIRMAN: Q. When you refer to industry, I
 suppose you mean the growing of the livestock; you call that
 an industry?
- A. Yes, sir*; well, I will call it a producer, because I think it is better.
- Q. Quite right. You say that the rates could be raised, but not without a protest?
 - A. That is right.

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- Q. Well, do you know, or do you believe, that it would have any effect on the production of livestock itself if the rates were raised?
- . If the livestock rates were raised reasonably, I would say no. We have got to bear in mind on the livestock -- and I explained it once in my evidence -- that in 1921 we wiped out all of the 1920 increase on livestock within Western Canada, within Eastern Canada, and from Western Canada to Eastern Canada, and the rates have remained there ever since except for the 21 per cent increase in 1948 and the 8 per cent increase in 1949. Now, to that extent the livestock rates are depressed in comparison with the increases on other commodities.

THE CHAIRMAN: I see.

COMMISSIONER INNIS: Q. Would it have any effect on particular livestock? That is to say, your rates as they are quoted in your appendix are the same for hogs, sheep and cattle?

- A. They are what?
- Q. They are the same per hundred pounds to Toronto and to Montreal?
 - A. Oh, yes.
- Q. Would the increase in the rates tend to imply greater emphasis on one or other of those products?
- A. No, sir, I would not think so. You mean one or the other livestock?
- Q. That is to say, would it favour production and shipment of hogs as against cattle?
 - A. I would not think so. They all take the same rate.
 - Q. Yes, but they are quite a different--THE CHAIRMAN: Q. You call them all livestock?
 - A. Yes, sir.

COMMISSIONER INNIS: Q. They are quite a differ-

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ent commodity?

- A. Quite so, but the price, whether it is cattle, sheep or hogs, has gone up. I do not think you would find if you analyzed what has happened over a period of years that one had increased and the other had been reduced in price. I think they have all gone up. Whether they have all gone up the same percentage or not I do not know.
- Q. Well, that is the point that I was wondering about, whether this increase, this blanket increase of 21 per cent and 8 per cent, would tend to change the relative emphasis on one or the other product. I think you said about their dressing out at different rates?
 - . Oh, well, that is critical relationship.
 - Q. That is what I mean.
- A. Yes, sir. What I said in my evidence was that cattle, sheep and hogs take the same rates. The loss in transit in one animal, that is, whether it is cattle or sheep or hogs, would vary, the percentage of product from the three different animals varies, the rates on the meats and the packing house products are different, and I did not see how you could make freight rates on any such system as proposed under this scheme of neutrality or critical relationship.
- Q. My Only point is that the blanket increase does destroy or change the relationship, change those varying relationships as between the one product and the other, for reasons that you have indicated?
- A. Well, I do not think so. First, if all the live-stock rates go up 21 and 8 per cent, the meat rates go up 21 and 8 per cent. If the packing house products go up 21 and 8 per cent, the relationship is not disturbed.
 - Q. Havve you made any study of the prices of these

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respective commodities in the eastern market as well as the western market or any study of the relation between the prices of meat of those products?

- A. I have not made any study of the price of the live animals or the products of the animals.
 - Q. Well, you would not be able to say unless you had?
 - A. No, sir.

THE CHAIRMAN: Q. Mr. Jefferson, you said just now that if the rate on livestock was increased there would be a protest from the livestock producers of Alberta?

- A. Yes, sir.
- Q. What about the rest of the country? Have we heard anything from Saskatchewan about that?

Have you said anything to us, Mr. MacPherson?

MR MACPHERSON: Oh, yes. At the hearing at Regina there was quite a lot of evidence given on that.

THE CHAIRMAN: Well, tell me, what is your position? What is your position on the question of whether or not the rates on livestock might be raised?

MR MACPHERSON: Well, we oppose the increase of rates on livestock. You may remember, I think it was Mr. Robertson of the Saskatchewan Co-operative Producers gave evidence in connection with that phase of it, and put into the record a great deal of evidence dealing with the freight rates on livestock being shipped, and the reason why there should not be any increase in respect of livestock rates -- the effect that it would have on the industry.

THE CHAIRMAN: He said it would have an effect upon the growing of livestock?

MR MACPHERSON: The raising of livestock; and also of hogs, not only cattle but hogs as well.

COMMISSIONER ANGUES: Q. Mr. Jefferson, was there

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any protest from the industry, or anything you could describe as a protest from the industry, in connection with the 21 and the 8 per cent increases? Did the livestock industry complain that that was making it difficult for it to operate?

A. Not that I know of, no, sir.

 $$\operatorname{MR}$$ EVANS: There was in the west. You were not in the west.

THE WITNESS: I beg your pardon?

MR EVANS: You were not in the west.

THE WITNESS: You mean before the Royal Commission?

MR EVANS: No, no; before the Board, before the Board of Transport Commissioners.

THE WITNESS: Well, I won't say there was not a protest on the contemplated increase. What I thought Dr. Angus was asking was, after the increase was made was there any protest.

COMMISSIONER ANGUS: Yes.

MR MACPHERSON: I think, Mr. Chairman, in answer to Dr. Angus's question, there was a protest during the hearings of the Board in the west, not only by witnesses on behalf of the ranchers and the processors but others as well, and then there was at the hearing of this Commission in the west evidence given by way of protest at the results of the increase of the 21 per cent; there was protest to this Commission by Mr. Robertson, as I recollect his evidence, im respect of the 21 per cent increase and the effect of that itself on the livestock industry.

MR COVERT: Q. Mr. Jefferson, I did not really mean to get into the business of the rates on livestock, but it did seem to me -- and again I want to put another

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part of your evidence before you -- it did seem to me that you intimated that there could not be a great change in the rate on livestock without causing considerable upset to the livestock industry. I just want to read to you again from the same volume 77, at page 15513 -- and this again is in direct evidence.

- A. Yes, sir.
- Q. At the top of the page you say:
- "... short of economic planning of the broadest kind, it would be difficult, if not impossible, to bring about the result desired by Alberta. The extent to which this plan would have to go if it were limited to railway rates, might have serious consequences uppn the revenue of the railways and would most certainly have serious consequences on existing industry."

Then later on, down about the middle of the next paragraph, after you have discussed the rates on livestock as compared with the rates on dressed meats and so on, you say:

"It would, in the opinion of Canadian Pacific, be impossible to raise the rates on livestock to a sufficiently high level to bridge the difference without inhibiting the movement of livestock to existing plants."

A. That is, to do what Alberta was asking.

THE CHAIRMAN: Without inhibiting the movement of Livestock?

 $$\operatorname{MR}$ COVERT: The movement of livestock to existing plants.

THE CHAIRMAN: Existing plants?

THE WITNESS: Packing plants.

THE CHAIRMAN: Q. Have you reference in this to Alberta only, or all over the country and in the United States?

A. Oh, well, all over -- not the United States,

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no, sir, but Canada. But there is one thing, Mr. Covert, that you must bear in mind, that in the direct evidence with respect to the critical relationship we were not talking entirely of livestock versus dressed meats and packing house products. I have made the statement that if you were going to establish by law any such principle on livestock versus fresh meats and packing house products, it would not end there.

MR COVERT: Q. I understand that. As I say, Mr. Jefferson, I quite follow your argument. I think you put it all in practically one paragraph in cross-examination the other day.

- A. Yes, sir.
- Q. What I wanted to find out was, it seemed to me that you were of the opinion that the rates on livestock could not be raised substantially without having a tremendous effect either on the livestock industry itself or perhaps on the associated industries, the packing plants.

 Now, all I wanted to find out is whether or not that is so?
- A. I do not want to be misunderstood here. I have said the livestock rates are low.
 - Q. Yes.
 - A. The yield is low.
 - Q. Yes.
- A. I say the livestock rates could stand an increase without injury to anyone, but to increase the livestock rates to accomplish what lberta is suggesting, you would have a serious protest from the producers of livestock, and I am sure that it would not be necessary for me to say that they would come in here and say, or go before the Board of Transport Commissioners and say, that we are destroying the livestock industry as such.

THE CHAIRMAN: Pardon me; I want to pick up an

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idea there.

- Q. You say the rate on livestock is low?
- A. Yes, sir.
- Q. Therefore you think it ought to be increased?
- A. Yes, sir.
- Q. Now, while it is low, would you say that it is not compensatory?
 - A. We have said that, yes, sir.
 - Q. You do say that?
- ${\mathbb A}$. I could refer you to the exhibit if you would like me to.
- Q. No, no; I just want to refresh my mind as I go along.
 - A. Yes, sir.
 - Q. You go so far as to say that it is non-compensatory?
- A. Yes, sir. I think in one instance that we showed in our exhibit that the revenue per car mile on livestock was less than ten cents; I think it was nine and a fraction cents a car mile.

MR COVERT: Q. As a matter of fact, Mr. Jefferson, would you say that it has been a policy of the railways to keep the rates on livestock low to encourage the livestock industry?

- A. I would say so, yes.
- Q. Now, my point is this -- again I would just like to take it that far -- you can conceive that if you raised it substantially it would have quite an effect on the indiustry?
 - A. Oh, yes. You can price any industry---
- Q. Mr. Jefferson, I understand that at the time of the 1921 reduction in rates, beef, that is, on the hoof, was worth about three cents a pound?
 - A. Three cents a pound?
 - Q. Yes.

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- A. That may be; I don't know.
- Q. And today it would be worth about twenty?
- A. I could not say offhand myself. I think it may be worth \$20 a hundred today.
- Q. It is in the order of almost seven to one, if my figures are correct?
- A. I do not think anyone will deny the fact that the price of live animals or the price of the products of the animals is very much higher today than it was when those rates were put in in 1921, and that the price has gone up many, many times more than the increase of 21 and 8 per cent applied to the rates, which is all that has been applied to them.
- Q. And the rates, the railway rates, have gone up nothing in proportion, nothing to what the price---
 - A. I agree with that, yes, sir.
- Q. Now, Mr. Jefferson, in connection with the comparison of freight rates on grain in the United States and in Canada, I think you have agreed that the high rates in the United States are at least partly due to the fact that---
 - A. Are at least what?
- Q. The higher rates in the United States are at least partly due to the fact that they do pay more wages to the railway employees in the United States?
- A. Oh, I would say yes, that the railway costs, railway unit costs, may be higher in the States than in Canada, but they are not that much higher.
- Q. I think the wages over there are approximately 25 per cent higher; do you know that?
 - A. I could not answerr that.
- Q. Now, you have alsoo said, I think -- and I want you to correct me if I am wwrong -- that, generally speak-

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ing, rates right straight throughout the United States on practically everything are higher than they are in Canada; is that correct?

- A. I think that is substratially correct today, yes, sir. You will find some individual commodities where the rates may be lower in the States than in Canada, but in the main they are higher in the United States.
- Q. Now, have you made any study at all to satisfy yourself as to what a proper comparison of the grain rates in the United States and Canada would be, that is to say, taking those things into consideration? Supposing, for example, you have a 40ϕ rate in the United States where you have a comparable rate in Canada of shall we say 20ϕ ?
- A. That is pretty close. Winnipeg to -- no, no; it is wider than that today.
 - Q. Well, 40 to 18?
 - A. Well, we will stick to Regina, if you like.
 - Q. Yes.
- A. Regina to Fort William is 20ϕ , and Whately, Montana, to Duluth for the same distance is 55ϕ .
 - Q. Now, it is 20 to 55?
 - A. Yes, sir.
- Q. What I am saying is, have you made any calculations at all giving weight to the differences in rates generally?
 - A. Wages?
- Q. Giving: weight to the difference in rates generally? In other words, I presume you would go this far, that if rates in the United States were generally say 25 per cent higher -- I am not suggesting they are, but if they were -- then you would want to make a comparable calculation between the American and Canadian rates on wheat?
- A. Yes, sir. Well, I mean we have not analyzed every rate in Canada with the rates in the United States,

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but I showed in Exhibit 165, which you might say is the only over-all comparison that you could make, that on the lines of the Great Northern and the Northern Pacific their grain pays a higher revenue per ton mile than all of their traffic except grain, whereas in Canada it is just the reverse.

- Q. Yes, I understand that. I guess I am not making myself clear. What I wanted to find out, Mr. Jefferson, was this: Supposing you would come to this conclusion, that because you say the United States rates on wheat should be properly comparable with those in Canada, bearing in mind that the United States rates generally speaking are higher, what would the rate in Canada be to bring it up to the United States level, subject to that differential that "is there on all rates?
 - A. Are you speaking only of grain or other traffic?
 - Q. Yes, just grain, I am talking about.
 - A. I have never looked up---
 - Q. You have never made a calculation of that kind?
- A. No; but it would be so much higher; it would be higher than anything that we have in mind.
 - Q. It would be?
- A. Oh, yes. You see, the only over-all comparison of that kind you can make is ton mile yields. Now, ton mile yields in the United States on all traffic is more than it is in Canada; on grain it is more than it is in Canada.
- Q. Then would you think that you would try to adjust grain so that it would give the same comparative ton mile yield as---
 - A. We are not suggesting that.
- Q. You do say, Mr. Jefferson, that there is a much *greater disparity between the grain rates in Canada and the

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United States than between other commodities in Canada and the United States?

A. Speaking of Western Canada compared with Western United States, I would say yes.

THE CHAIRMAN: Q. Does that comparison hold true if you compare American rates on livestock with Canadian rates on livestock?

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A. I don't know whether I have a comparison here of the United States rates on livestock with Western Canada; I don't think I have, but I think I would be quite safe in saying that the livestock rates in the western United States, like to St. Paul market or Chicago market, are much higher than our livestock rates in Western Canada to the Calgary or Winnipeg markets.

MR. COVERT: Q. Now, Mr. Jefferson, you recall the other day you filed Exhibit No. 178 showing the wheat acreage in the United States, and the amount of export in the United States and Canada, and at about the same time Mr. MacPherson filed Exhibit No. 179. Mr. MacPherson's was the one for, I think, the period of 23 years?

- A. I have forgotten about it now.
- Q. I will just hand you here the two copies. That was the one you filed, and this is the one Mr. MacPherson filed?
 - A. Yes, sir.
- Q. I made a rough calculation, and it seems to me that the average United States crop had been somewhere in the vicinity of 850,000,000 bushels as compared with Canada's 375,000,000 bushels.

THE CHAIRMAN: For how many years?

THE WITNESS: For what period?

MR. COVERT: Q. About a 23-year period. And that the United States exports had over this period been 142,000,000, whereas the amount exported by Canada had averaged about 247,000,000. Now this would indicate that Canada not only exported a far greater volume percentagewise, that is approximately 66 per cent, as compared with the American figure of 16; but Canada has actually exported

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- A. In the United States?
- Q. Yes.
- A. I haven't the figures.
- Q. I say if that is so; and the Canadian consumption was apparently around 34 per cent -- again on the rough calculations --
- A. You are speaking of Canadian consumption at 34 per cent?
 - Q. Yes.
- A. That is not very far out with my exhibit 178, where I show percentage of export at 61.1 -- say 61 -- that would be 39 for domestic consumption.
- Q. I think the real difference between the two, Mr. Jefferson, is the American figures; they are vastly different than, perhaps, the average over a long period of years. I will come to that in a few minutes.
 - A. That may be; I just made this exhibit up to show --
- Q. I just want to see if those figures are anywhere near correct: 66 against 16 for exports. Would you not agree that there would be a vast difference in the position of the farmers in the West, of Canada and the United States, where the one has a very substantial domestic market, and the other depends to a much larger extent on a foreign market?
 - A. I don't know; I would doubt it, as long as --
- Q. You think, Mr. Jefferson, that it doesn't really matter, as far as the farmer is concerned, whether he must look to a domestic or a foreign market?
- A. No. I say the farmer has got to find a market for his product, but if he has a market and is getting a reasonable return, then it makes no difference whether that market is a home market or a foreign market.
 - Q. There would be this difference, would there not,

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that a country can sometimes control its domestic market much better than its foreign markets?

THE CHAIRMAN: How did you say that?

MR. COVERT: A country might be able to control its domestic market better than it could a foreign market.

THE WITNESS: Yes, I think I admitted in my evidence that Canada is more dependent on an export market than is the United States. That does not follow that there is an unsatisfactory return.

MR. COVERT: Q. I am not suggesting, Mr.

Jefferson, that there is an unsatisfactory return. I
just suggest that it might make a substantial difference
in the position between the two farmers, one in the
western United States and the other in western Canada,
where one has a much larger domestic market and the
other is more dependent on an export market.

A. It might, but I don't think it does.

COMMISSIONER ANGUS: Q. Is it suggested that help to industry by way of price maintenance is easier if there is a big home market?

- A. I think that is so.
- Q. In the United States.

THE CHAIRMAN: Of course, I do not suppose there is any way of doing it, but it must be remembered that when you talk about export of Canada's wheat at 66 per cent, that includes the whole of the Canadian wheat; it includes the wheat grown in eastern Canada as well as in western Canada.

MR. COVERT: That is correct.

Mr. MacPHERSON: Then you must also remember that there was this difference between the figures submitted by Mr. Jefferson in 178, and those I put in

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in 179; the exhibit 178 of Mr. Jefferson took into consideration the production of wheat in western Canada, whereas, in 179, I have shown all the wheat grown in Canada, whether it be Ontario, the maritimes, British Columbia and so on, it is all there.

THE CHAIRMAN: It seems to me there must be a much greater percentage of wheat grown in western Canada which is exported, than that of eastern Canada for export; you are talking of course now of the freight rates that affect only western wheat; we are not talking about domextic rates.

MR. COVERT: No, I think, Mr. Chairman, it was made very clear at the time Mr. MacPherson filed his exhibit, that there was this discrepancy between the two exhibits, the one filed by Mr. Jefferson and the other filed by Mr. MacPherson. I have not attempted to deal with it accurately --

THE CHAIRMAN: I understand; I am just pointing out these things. I think we should keep them in mind.

COMMISSIONER INNIS: Have we on record the difference between the prices in the United States and the prices in Canada?

MR. COVERT: There was a graph filed as one exhibit showing, I think, the present close relationship between prices, and then there were some figures filed. I would say this, Dr. Innis, that I do not think we have complete information in any respect, as far as prices are concerned.

THE CHAIRMAN: Not now, but the market quotations on the Chicago, Winnipeg markets . . .

MR. MacPHERSON: I propose, Mr. Chairman, to file information in this connection.

MR. COVERT: Q. I think, Mr. Jefferson, the

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point has been cleared up, but in case it hasn't, I believe it is true that the American production in the last few years has been far in excess of our ordinary production, and, as a matter of fact, I think it has been encouraged for a specific reason, namely, the export of grain has been encouraged under the Marshall Plan, has it not?

A. I don't think they have encouraged production to the extent of bonusing grain for the purpose of increasing production. I don't think so. I think what Mr.

MacPherson said was that there was -- and I can's express it; I would have to ask him to do so -- but there was something done to help the marketing of the crop that was produced.

THE CHAIRMAN: Q. Are you now talking of the United States?

- A. Yes, sir.
- Q. I understand that there was a bonus on exportations of so much a bushel?

MR. COVERT: That was my understanding.

THE CHAIRMAN: Was that not because they were making particular effort to feed Europe?

MR. COVERT: That is my understanding.

THE CHAIRMAN: There was a high export during those years. I think Mr. MacPherson told us of the bonus system.

MR. MacPHERSON: My understanding is that it was 50 cents a bushel, to the extent of 168,000,000bushels on this crop year. Then of course there are other means of stabilization; they have a loading system, and so on, down in the United States, particulars of which I propose to give to the Commission later.

THE WITNESS: All I was pointing, out, Mr. Chairman,

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was that the bonusing was not for the purpose of increasing production, that is all.

THE CHAIRMAN: Q. No, it was for increasing exportation.

- Α. Yes, sir.
- Which might have its effect, of course, on production?
 - If it lasted long enough, yes, sir.

MR. COVERT: Q. Mr. Jefferson, I would like to ask you this: you have been until you were recently appointed Vice-President in the position, I believe, of General Freight Traffic Manager for the C.P.R.?

- A. Yes, sir.
- Q. I suppose it would be fair to state that holding that position you would have considerable worry over the fact of the loss of short haul traffic?
 - Oh, it has been over a period of years.
- And you would also agree, I think, that in the future there is a steady dependence on long haul traffic?
- A. No doubt. I don't know whether we are going to see any greater tendency for long haul traffic in the future than we have seen in the last ten or fifteen years or not.
- That is very, very important to the existence of your railway?
 - Quite so.
- I suppose it is fair to say that that is one of the reasons why there is this feeling on the part of the railways that grain rates should be taken out of the statute?
- A. Well, that is one of the reasons for asking for it, but there is this that you have to bear in mind: if the railways can't get sufficient revenue to meet their

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requirements from short haul as well as long haul traffic, long haul traffic has got to pay for it.

- Q That is true. There is this great bulk of long haul traffic which, as you say, is not bearing its proper share?
 - A. That is right.
- Q. And so that would be one important reason why the grain rates, in your view, must be taken out of the statute?
- A. But it wasn't because of the competition on unregulated carriage that we suggested the statutory provisions in the grain rates be removed.
- Q. I am not suggesting that, Mr. Jefferson. I just wanted to find out if that was not really part of your thinking in this matter that, here is this big chunk of traffic that no matter what happens to the cost there can be no increase in the freight rates on it?
 - A. That is correct.
- Q. And it is long haul traffic, which the railways generally have a most complete monopoly on, and if you could bring this change about it would ensure your position in the long haul field certainly to a greater extent?
- A. Yes. If the traffic/can afford is charged a higher rate, I don't think anyone will admit that the rates charged in 1889 are reasonable rates for 1950.
 - Q. I understand that argument, Mr. Jefferson.
- A. But what I was going to say is that it is not only unfair to all other shippers, as you have already said, but it is also unfair because these short haul rates you are complaining about -- I don't say you are complaining about them, but you are mentioning them -- if they get up so high it will make it difficult for us to meet the competition in the short haul field.

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- Q. There is this chunk of traffic which is not bearing its proper share, and which is continually forcing you to raise your rates on other traffic, which will become so high that you cannot --
 - A. Which ones will become so high?
- Q. The short haul, and perhaps some of the others also.
- A. If we get the short haul rates too high there is always the tendency of losing more of that traffic.
 - Q. I understand that argument.
 - A. Yes.
- Q. Therefore you say that is one of the reasons that this must recessarily come under the Board of Transport, so that these rates can find their proper level. That is your view?
 - A. That is our view, yes, sir.
- I put this to you, then: perhaps that is one of the reasons why the farmers of the west are apparently fearful of placing it in the hands of the Board of Transport Commissioners, because they say -- I am just suggesting that this is the argument -- the farmers say, in effect, the railway is losing its short haul business, and they must look to long haul traffic; they have to keep a monopoly on grain rates, and it will perhaps be an easy matter for the railway to show that these grain rates must bear a larger share of the incoming revenue to the railways, because under the general provisions of the Railway Act they provide that just and reasonable rates must produce revenue for the railways; here the railways will increase this beyond what we can bear, and it will be a shock to the industry, especially in view of the fact that even though it is going to be fixed by the Board of Transport Commissioners, it could stand a double (Page 16390 follows) rate

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- A. Yes, sir, it could stand ahigher rate, yes.
- Q. And perhaps that is why they insist that this remain in the hands of parliament. So, what I want to come to now, bearing what I have just said in mind, is what you would do if the case did come before the Board of Transport Commissioners, and I want to ask you this first: if you went before the Board of Transport Commissioners on behalf of the railways, would you advance as part of your case or, if it were advanced by the other side, would you oppose this proposition, the fact that the West is based on a wheat economy? Would you agree with that proposition in the making of the new rate?
- A. Well, we would agree that the wheat economy has a lot to do with the West, but we do not say that the West is entirely dependent upon it. There is a lot of business in the West besides wheat.
- Q. Do you think the Board of Transport Commissioners should give some effect to that in fixing the rates?
 - A. I don't know; I would not say so.

THE CHAIRMAN: I think you have raised a point there. What power would the Board have to give effect to the economic reasons you are suggesting? Supposing these rates were liberated from statutory control and it was open to the Board to regulate, we have heard a great deal about power and lack of power. Now, supposing the two parties, to take an extreme case, supposing the railways said: "No, we want the highest rates that we can reasonably ask for"?

MR. COVERT: That is exactly my point. The point is that the Board of Transport Commissioners could not compel them, perhaps could not compel the railway to put in special rates with that in mind, but nevertheless the Board has said, for instance, they put in a special

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rate -- perhaps not a special rate, but they did temper the rate on coal and they gave as a reason, if my recollection is correct, that it was very important to the national economy. Now, what I wanted to find out was if the railways advanced that as a reason, the Board of Transport Commissioners might say: "Well, yes, we will take that into consideration in fixing this rate", but if the railways opposed it, then the Board of Transport Commissioners might say, "Well, we have no power to decide matters of this kind". That is why I wanted to ask that question of Mr. Jefferson.

MR. EVANS: It is pretty difficult for Mr. Jefferson to answer what he would do or what he would say to the Board in a given instance in the future. I do not suppose he has given his mind to exactly what he would say.

THE CHAIRMAN: I think the way it looks to Mr. Jefferson would be of importance to us.

MR. COVERT: My point is, the Canadian Pacific Railway has advanced this matter very seriously and it is a very serious matter and presumably --

MR. EVANS: I am not suggesting it is not serious. MR. COVERT: And I am not suggesting that you are suggesting that it is not serious. If I may be per-

mitted --

THE CHAIRMAN: What was that?

MR. COVERT: Mr. Evans just, if I may use the expression, heckled me by saying that he was not suggesting that it was not a serious matter. All I am saying is that I presume that Mr. Jefferson in the position which he holds, must have given this matter a great deal of attention because he has said that ! We would place this matter before the Board and allow the Board to determine this rate" and, as a matter of fact, there was a

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discussion between Mr. Evans and Mr. Jefferson on the point -- I think Mr. Evans asked for permission to consult Mr. Jefferson as to whether or not they would make it a condition that the Board of Transport Commissioners would propose the rate first. So, as I say, I presume that Mr. Jefferson has given this matter a great deal of thought.

THE CHAIRMAN: Well, he certainly must have, having regard to the examination of Mr. MacPherson.

MR. COVERT: That is what I asked Mr. Jefferson first, would you think that the fact that the rates have been in effect for so long a time, that perhaps the railways themselves might advance to the Board of Transport Commissioners that the rates should be advanced gradually.

- Q. Have you given that matter any thought?
- A. No, sir.
- Q. You have not?
- A. No, sir. If you are asking me what we would do when we got to the Board of Transport Commissioners, I would say to you that we would no doubt develop the subject as we developed it in our submission here, that is, the part of the submission that we were prevented from putting in here.

THE CHAIRMAN: That you were what?

THE WITNESS: Prevented from putting in here.

THE CHAIRMAN: Q. Perhaps one of these volumes, Part I or Part II, does go so far as to say what the attitude of the railway would be in case a statute were removed.

MR. EVANS: I think what Mr. Jefferson has in mind and what he has just said is that one of the principal things that we have advanced to the Board would be this cost study which this Commission did not see fit to

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examine. That would be a very big part of our case. THE CHAIRMAN: Yes, in a contentious case I think it would be.

MR. MacPHERSON: But as I understand it the submission of Mr. Evans is that they had done that before and there should be no amendment to the Railway Act which would direct the Board of Transport Commissioners in any Way to take economic conditions into consideration in a greater measure in the future than they have in the past.

MR. EVANS: Of course, the Board does take economic conditions into consideration in this value-ofservice principle. The very essence of the value-ofservice principle is to make each commodity bear in proportion to its ability to bear and that in essence must have some relation to economic considerations but we are talking about giving the Board powers of the kind we are discussing now as an economic planning, the right to have the Board decide that a rate should be determined solely with relation to the ability of an industry to bear that rate.

THE CHAIRMAN: Now, am I right or am I wrong that it seems to me the Board did have at more than one time to deal with livestock rates, for instance?

MR. EVANS: Yes.

THE CHAIRMAN: And did they, in those cases, show any evidence of being influenced one way or the other by the economic considerations involved?

MR. EVANS: I do not know whether you have in mind the case that has been referred to here where the packing houses and others were raising this question of relationship between meats and livestock. That is a very long judgment and there are two things about it. There

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was one statement which I recall in which the Board said it was not an arbiter of industrial policy and so on but the other point was that they dealt. With this matter on its merits.

THE CHAIRMAN: What are its merits? What is it?

MR. EVANS: The merits were whether this relationship they were dealing with in this case should be established.

MR. FRAWLEY: After all, Mr. Covert is cross-examining and we must not turn this into a discussion,
Mr. Evans. I challenge entirely his statement that that
Gainer case that was referred to by Mr. Harries in his
evidence decided or disposed of this case we are submitting
to the Board. Gainers simply asked for a rate to
Winnipeg and they said they should not have it.

MR. MacPHERSON: I also do not like to interrupt
Mr. Covert, but there is just one other thing. There
was a reference to coal as not being subject to the 21 per
cent increase. Now, might I point out in this connection
that in so far as coal is concerned, when the Railway
Association applied for their increase they applied for
a 30 per cent increase but they applied for a rate per
ton on coal. In their very application they differentiated
between coal as a commodity and all other commodities.

THE CHAIRMAN: It seems to me that your general position, I mean that of the railways and you are a Vice-President after all, is that so far as these Western provinces are concerned you are compelled to carry their grain at an unreasonably low rate by statute?

THE WITNESS: Yes, sir.

THE CHAIRMAN: Q. And that you also carry their livestock at an unreasonably low rate?

A. Yes, sir.

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- Q. You are not compelled to do that, are you?
 - A. No, sir.
- Q. That is your own way of looking at this situation?
 - A. That is right.
- Q. When I say you are not compelled, I mean you are not compelled by statute and you are not compelled by the Board or by anybody else?
- A. That is right, we can increase the livestock rates if we decided that were the proper thing to do.
- Q. Did you decide the proper thing to do was to keep it going at an unreasonably low rate?
 - A. I beg your pardon?
- Q. You considered that the proper thing to do was to keep the livestock rate at an unreasonably low level?
- A. I don't say we think it is the proper thing to do but it is there.
- Q. It is the thing you are doing without any compulsion?
 - A. That is right.

THE CHAIRMAN: We will take a few minutes now.

MR. COVERT:Q. Now, Mr. Jefferson, I wanted to ask you also if you felt that one of the considerations which should be adopted by the Board of Transport Commissioners (I am assuming now that the sections of the Act dealing with the Crows Nest Rates were repealed and the matter did come before the Board) whether you felt that the Board should be enabled to give consideration to certain factors and one would be whether the fact that Canada is a grain exporter more so perhaps than they are in the United States proportionately, total production, that that should be a factor which the Board of Transport

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Commissioners should take into consideration in fixing a grain rate?

- A. They might take that into consideration, yes. In principle I would say this, that I do not think the Board of Transport Commissioners should take something into consideration with respect to grain rates that it should not take into consideration with respect to other rates.
- Q. In other rates, you say, then, that in your view the considerations should be exactly the same on grain rates as on any other rates?
- A. Yes, sir, you have other export commodities out of the prairie provinces besides grain.
- Q. And would you say this, that the position of the Canadian Pacific would be that that would not be a proper consideration for the Board of Transport Commissioners to take into account?
 - A. I would think so, yes, sir.
- Q. Now, would this be a fair question to ask you? Supposing, for example, for some reason the price on wheat suddenly dropped; do you think the Canadian Pacific Railway would oppose an application for lowering the rates in such a case?
- A. Well, Mr. Evans explained that the other day.

 My view is that freight rates cannot fluctuate with

 commodity prices. Mr. Evans explained that if there

 was any general downward trend in commodity prices other

 things would generally go down and the general level of

 freight rates might go down. The same when they go up,

 but the difficulty with the railways is that the prices

 go up quicker than freight rates but every one wants

 freight rates to go down just as fast as prices.
 - Q. Now, Mr. Jefferson, let me put this to you.

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I understand that your position really is this, that you are prepared if the relevant sections of the Railway Act are repealed, to allow the Board of Transport Commissioners to fix a rate and you suggest that it should be a commodity rate?

- A. On grain?
- Q. Yes.
- A. Oh, yes.
- Q. And presumably when the Canadian Pacific puts in a brief that this should be repealed, they hope and perhaps expect that this Commission will perhaps recommend that and that parliament would repeal the relevant sections on the recommendation of this Commission?
 - A. That is our submission, yes.
- Q. Then, you must have considered whether from a purely practical aspect of the matter parliament would repeal those sections and just leave the grain rate the same as any other rate. Do you think that that is a practical approach to the subject?
- A. I do; that would not be an unreasonable position for them to take.
- Q. Then you have not considered, perhaps, any other necessary legislation, that is that perhaps these Crows

 Nest rates should be dealt with a little differently than other rates?
 - A. Not in fairness to everyone, no.
- Q. And you would not suggest perhaps merely that the same features should apply to this as say a competitive rate, that they should be compensatory and perhaps just a little more?
- A. I don't know what you mean, Mr. Covert.

 Perhaps I have not got your point.

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- Q. Well, you do put in competitive rates that contribute something more than out-of-pocket expenses?
 - A. Yes, sir.
- Q. You do not think perhaps that the grain rates should be of that kind? You say it should be bear its full share?
- A. If you are going to treat freight rates as they should be treated, they should all be treated alike unless there is some competitive position that would justify a different treatment.
- Q. Then, Mr. Jefferson, I put it to you this way, that as far as the grain rates are concerned, there certainly won't be a competitive condition, will there?
- A. No, sir, I don't know of any competitive carrier competition.
 - Q. You will have market competition possibly?
 - A. Yes, sir.
- Q. Then these rates would be of the kind that would bear what the traffic will bear?
 - A. What it perhaps will bear or what it should bear.

(Page 16400 follows)



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- Q. You would not think it advisable to have some special restrictions in the statute relating to grain rates?
- A. I do not know how you could have any successful provision as you talk of. We cannot in making freight rates. If we make a freight rate for one person different than another we get into trouble. We have to be as fair and as reasonable as we can in making all freight rates.
- Q. Yes. Let me put this to you: Supposing, for example, the statute were left so that the Crows Nest rate would always apply in so far as the shipper is concerned, but that as far as the railway is concerned it just took the increases that other rates took, and they were treated in a manner similar to the M.F.R.A., that is, by way of subsidy; would the C.P.R. say, "No, we don't want that"?
- A. We say that that is entirely for the Government to decide, not for us to decide, for the railways to decide.

THE CHAIRMAN: Q. No, but your company says it does not want any subsidy paid to the railway?

- A. That is right.
- Q. If anything is to be paid it should be paid to the producers?
 - A. Yes, sir.

 $$\operatorname{MR}$ COVERT: Q. Then you would reject that form of treatment?

- A. Reject what form of treatment?
- Q. The one I have just suggested, that would result in a subsidy being paid to the railways for the amount of the increases. For instance, supposing the statute had been repealed, or the statute had contained a provision, as it does now, that as fiar as the shipper is concerned there cannot be an increase in those Crows Nest rates, but

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Mr. Jefferson

at the time you made your 30 per cent application and were awarded 21, and later an 8 per cent increase, that increase had applied as far as the railways were concerned, not affecting the shipper, but had applied so that the railways would get that increase by way of subsidy from the Government, what would you say to that?

- A. We say we do not think that that is the way to do it.
- Q. Now, would you reject also, or would you think perhaps that this kind of statute would not be a feasible one, that they might be treated somewhat in the nature of an agreed charge, like Mr. MacPherson was talking about the other day -- in other words, that they must be compensatory, but that, since there is such a large volume, and you have a monopoly on the haulage of grain, that they might just be compensatory plus a little something to contribute to the railway, if you could work out a statute of that kind with respect to the Crows Nest?
- A. I do not think one has anything to do with the other. An agreed charge is for the purpose of making a competitive rate to those signatory to the agreed charge, not to those not signatory to the agreed charge.
- Q. Well, perhaps I should not have put it that way. What I wanted to get from you was this, that because -- they do perhaps require special treatment; after all, Parliament has rejected before any idea that they should not have special treatment?
 - A. I beg your pardon?
- A. I say Parliament has at least on one occasion rejected an application that they should be taken out of the statute, and perhaps---
 - A. Speaking of 1922 now?
 - Q. Yes. Perhaps they would again?

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- A. They might; we do not know.
- Q. What I am trying is to see if there is not some other method of dealing with these. Now, if it could be provided that they would be compensatory -- you allege that they are not -- if it could be provided that they would be compensatory, and that the Board of Transport Commissioners would keep them under review to see that they were compensatory and something added---
- A. Well, I don't know. I am getting a bit confused in the question. I say you do not need an agreed charge for grain rates.

THE CHAIRMAN: Q. You do not need what?

A. An agreed charge for grain rates.

MR COVERT: Q. I say, Mr. Jefferson, perhaps I should not have used that analogy.

- A. Let us drop that, then.
- Q. But if something could be worked out?
- A. Yes, sir.
- Q. Providing that there would be a compensatory rate, plus a little something, but not to give the railways complete freedom?
 - A. Who is going to make this rate that way?
 - Q. Who is going to make it?
 - A. Yes.
- Q. Perhaps the Board of Transport Commissioners -bearing in mind perhaps they should in this particular
 case have the power to consider such things as the fact
 that you have almost a complete monopoly on the grain
 haulage, that Canada is a grain exporter rather than a
 seller in a domestic market, and also bearing in mind that
 the rates have been in effect for a long time, and perhaps
 that increases should be gradual -- perhaps the statute
 should provide that; you do not think so?

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- Q. My only answer to that, Mr. Jefferson, is that I think you always have to bear in mind the history of these rates and the difficulty that the railways have had in having Parliament repeal that. Now, I am suggesting to you perhaps the C.P.R.'s recommendation should not be so drastic; perhaps they should come in with something not as drastic, because obviously the western wheat farmer will oppose it and will urge that the shock will be too great to the economy?
 - A. Someone will oppose every increase in rates.
- Q. I understand that, Mr. Jefferson, but I am suggesting---
- A. All we say is that grain rates should be treated the same as the rates on anything else.
- Q. Then you take the firm position, Mr. Jefferson, that the section should be just repealed, as the brief suggests, and that there is no halfway measure, there is no quarter-way measure, it is stand or fall on the repeal?
 - A. That is my view.

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COMMISSIONER ANGUS: Q. Mr. Jefferson, if they are to be treated in exactly the same way as every other, what was the point of suggesting that you would give the Board your cost material and so on in the case of the grain rates?

- A. Only to prove that the rates are too low, that is all.
 - Q. And do you do that in the case of other rates --

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in the case of livestock, for instance?

creased the rates on livestock, if the railways increased those rates, and the shippers -- and I am sure they would -- would apply to the Board for suspension of the tariffs, the tariffs would be suspended, the action having been initiated by the railways the railways would have to justify the increase in the livestock rates, and one of the justifications would naturally be that the rates were too low or not compensatory.

THE CHAIRMAN: Don't you think that your brief seems to contemplate something different? -- because you say on page 189 that, while you wish the Board of Transport Commissioners to have jurisdiction over these rates, as over all other rates, you say, though, that before fixing the rates on grain -- before fixing them?

- A. Yes, sir.
- Q. ---and grain products in Western Canada, Canadian Pacific would expect a most thorough and detailed study by the Board. That is, you seem to have in mind there a period of suspension.

Is that right, Mr. Evans?

MR EVANS: Well, I don't know that you would call it a period of suspension.

THE CHAIRMAN: Well, how can they make a study? What rates would be effective in the meantime?

MR EVANS: The existing rates would have to be effective in the meantime.

THE CHAIRMAN: Isn't that prooper, then, to say that there would be a period of suspens:ion?

MR EVANS: Well, I misinterpreted what you meant by suspension. But I did want to say twhis, that my view, for what it is worth, is that the Board could take into

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account all of these considerations today under the present provisions of the Railway Act that Mr. Covert is putting to the witness. They are considerations that the Board could take into account today.

THE CHAIRMAN: While they are taking all this into account where would the rates be?

MR EVANS: As far as that is concerned, I agree, sir, that the rates would not go up until the Board should have determined that they should be higher.

THE CHAIRMAN: That is what I understood your attitude to be, that you leave the rates as they are, and wait for the Board to fix new rates.

MR EVANS: Yes, sir.

THE CHAIRMAN: Well, Mr. Jefferson seems to think the proper way to do would be for you, as in all other cases, to fix your own rates and let those concerned appeal to the Board if they want to.

- Q. That is what you think, Mr. Jefferson?
- A. The only reason for the difference on page 189 of the brief that you read, the submission you read, the railways could -- I do not want to be misunderstood -- the railways could publish a 'tariff and increase the rates if the Act was repealed, but what we say there is, what is the use? If we did that they would be suspended anyway, and the Board would have to decide.

THE CHAIRMAN: Well, Mr. Evans told us the other day, too, that the company would agree to legislation keeping the rates as they are -- I used the word "suspending" -- until the Board has completed its study. You told us that the other day.

MR EVANS: Oh, yes.

MR COVERT:Q. You see, Mr. Jefferson, what I have been trying to find out -- Mr. Evans says that the Board

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can take these into consideration, but if the railways objected the Board might not take them into consideration, and I suggest that they might well say, "Well, we won't take these into consideration." Now, I think it is important to have a fair idea of what the position of the railways would be, and that is what I have been trying to arrive at. You see, before the Board of Transport Commissioners should be given power to deal with rates of this kind, perhaps there should be some idea of what the railways' attitude would be. Now, it seems to me that the railways suggest that some special treatment will be given in this case, because of the importance of the rates themselves. They say, "Well, in this case before the railways put in a rate or suggest a rate, the Board of Transport Commissioners should make a thorough study"?

- A. Yes, sir.
- Q. Now, that is a different treatment than accorded to other rates?
 - A. Different?
 - Q. Yes.
 - A. It is, because of---
 - Q. Because of the size and the importance of the rate?
- A. We say in connection with the grain rates, if the sections of the Act were repealed we might as well go to the Board before the rates are published, than to have them published and suspended and then go through the same---

THE CHAIRMAN: Q. And then what?

A. And then go through the hearings with the Board. We might just as well go there first. We have said we are willing to do that. Now, it is true we do not do that with other commodities; we know that.

MR COVERT: Q. That is because of the size and the importance of this thing, I presume, that you are willing to

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do that?

- A. Size and importance if you will; but we are quite prepared to do that.
 - Q. Yes?
 - A. Yes, sir.
- Q. Now, perhaps I asked you this before, but I wanted to know if you had calculated what in your opinion the tonmile earnings of this product should be?
 - A. No, sir.
 - Q. You have not?
- A. Only to the extent of the study which we have put in.
- Q. And you have not really figured what you would ask for for these grain rates; you have not gone that far?
- A. Well, a lot of what you are saying now is in the part of our submission that we are not permitted to develop, and I am not the party to develop it. It is the cost study of the grain traffic.
- Q. Then are you telling me, Mr. Jefferson, that the rate which would be put into effect would have a great relation or a direct relation to your costs?
- A. Some relation to it, certainly. That has all got to be developed, Mr. Covert.
 - Q. And you have not developed it yet?
 - A. No, sir.
- Q. And you have really no idea what rate you would ask for?
 - aA. No, sir.
- Q. And you do not feel that it is of great importance to perhaps give some confidence to the wheat farmer?
 - A. Some confidence?
- Q. Confidence to the wheat farmers, that they should know perhaps in advance what the position of the railways is

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If this statute is or is going to be before the Board of Transport Commissioners, if the statute is repealed? For instance, I suggest to you, Mr. Jefferson, that if they knew that the rates were going to be gradually raised, that they were only going to be raised a cent, two cents, three cents, four cents, or whatever it may be, or that the railways were going to take into consideration all of these things, the attitude of the farmer might be entirely different from what it would be if he were just told the statute is to be repealed, and the railways will go before the Board of Transport Commissioners and ask that these rates bear their full share of the burden?

- A. There would be plenty of time to develop it then.
- Q. That is your view?

THE CHAIRMAN: Q. What do you say, Mr. Jefferson?

A. There would be plenty of time to develop it then.

All I want to say is this, Mr. Covert, that the

questions you are asking me now would have been developed

if we had been permitted to develop our submission further

than we did, and would be further developed when it

reaches the Board of Transport Commissioners; but I am not

in a position to answer all those questions today.

MR COVERT: Q. I suggest to you, Mr. Jefferson, that perhaps all that would do would be to endeavour to establish that the rates were non-compensatory?

- A. That is all right.
- Q. Now, I am assuming with you now that they are non-compensatory, and let us assume that they were proved to the hilt, let us assume that that were taken as a reason for the repeal of the statute?
 - A. Yes, sir.
- Q. Let us assume that the Commission recommended that the statute be repealed, Let us assume that Parliament

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MR COVERT: Q. I suggest to you, Mr. Jerten.cu.

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- says, "Yes, we accept the recommendation, and the statute is repealed"?
 - A. Yes, sir.
- Q. I point out to you that under circumstances of that kind the farmer today is certainly worried; he would certainly be worried if the series of events which I have just indicated took place, if he thought there was a strong possibility that that would take place; I suggest to you that the wheat farmer would be highly worried, the wheat farmer in the west. Now, I say perhaps you could relieve that worry if, instead of that complete slash of the relevant sections out of the Railway Act, there was some measure of protection provided, in other words that these rates were not to be doubled?
- A. What greater measure of protection would be need than the Board of Transport Commissioners?
 - Q. That is your view?
 - A. Yes, sir.
- Q. Then, Mr. Jefferson, we will leave the Crows Nest rates, and I go on now to just one or two questions on distributing rates and town tariff rates.

(Page 16411 follows)

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 ${\tt Mr.}$ Evans has suggested that this matter should be called to your attention.

On Page 183 of Part I of the Canadian Pacific brief I call to your attention this paragraph reading as follows:

"However, it is recognized that in the case of the grain traffic, value of service considerations might suggest that the grain traffic should not make its full contribution to the return on investment but should instead contribute on the net investment in facilities required in its movement, not less than the cost to the Company of its debt capital which in 1948 was 3.58 per cent."

MR. MACPHERSON: This is really part of the cost study. The 3.58 per cent comes in there.

THE CHAIRMAN: Yes, but it does not necessarily say that the cost study should take place now.

MR. COVERT: This does not change the ruling.

MR. MACPHERSON: My only comment is: that should the matter of costs be approached as it as approached here, it would be attacked by the producer as well as by others.

We are not accepting in any sense any figures given in that study by way of conclusion or any other way.

MR. EVANS: I brought this about, and I wish to say to my friend that in no way I thought I was trans-gressing any ruling.

Moreover, I would point out that in our brief we had recognized that the value of service considerations might suggest a smaller contribution than other traffic,

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than grain traffic. It was only a principle.

MR. MACPHERSON: Well, we do not accept these figures in any sense.

THE CHAIRMAN: No, these figures are only of some use as illustration.

MR. COVERT: Q. Now, Mr. Jefferson, I wish to deal with distributing rates and town tariffs.

We have had submissions made as to the difference between the distributing rates in the west and the town tariff rates in the east.

I would ask you this: apart from considerations of revenue requirements, is there any reason, in your opinion today, why there should be a difference in these rates in the east and in the west?

- A. In the distributing rates?
- Q. Yes.
- A. Not necessarily so, except that I would put it to you this way: that if all freight rates -- are we talking now of equalization or distributing rates?
- Q. What I had in mind was this: as I understand it, there are quite a few differences between the treatment of the two. For instance, in the east, the town tariffs work both ways.
 - A. Yes.
- Q. And in the west they work both ways in some instances, but in others, they do not. That is correct, is it not?
 - A. That is right.
- Q. And I want to find out whether or not there is any -- apart from your revenue requirements -- I was going to put it, perhaps, on the basis of maturity, and that, perhaps, the west has reached a stage of maturity where

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similar rates could be put in?

- A. What I wanted to develop was: are we discussing it from the point of view of equalization of rates?
 - Yes, equalization, if you like, yes.
- A. Well, I would say that if we are going to equalize all rates from the east to the west, then our revenue position must be protected.
 - Yes. Q.
- Whether it is distributing rates, or standard mileage rates, or commodity mileage rates, or, as I said yesterday, special commodity rates related to mileage scales.
- My point is this: apart from revenue requirements Q. . now, is there any reason why there should be a different treatment in the west and in the east today, as far as these two particular types of rates are concerned?
 - With respect to equalization?
 - Q. Yes.
- A. Well, as we said in our submission, you cannot have true equalization unless all rates --

THE CHAIRMAN: Q. You cannot have what?

You cannot have true equalization unless all rates are equalized.

We get right back to the subject we were discussing. It is not true equalization if one class/rates, on a substantial movement of traffic, is going to be 1899, while on other traffic, it is going to be 1950 rates.

MR. COVERT: Q. I shall come to that later. But I thought that, perhaps, we cannot deal with this subject in this way. But it seemed to me that we had a good deal of discussion throughout the regional hearings, and subsequently in the briefs, saying: here you have

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two forms of what you might call distributing rates.

- A. Yes, sir.
- Q. In the east you have Schedule A or town tariffs, while in the west you have what are known as distributing rates?
 - A. Yes, sir.
 - Q. And there are differences between those two?
 - A. Yes, sir.
 - Q. Differences in application?
 - A. That is right.
- Q. Differences in the rules under which they work. For instance, I am not talking so much about the level of the rates; but there are differences in the application of those rates, and, as I say, in the east, they do work both ways.
 - A. Yes, sir.
 - Q. While in the west they do not.
 - A. Yes, sir.
- Q. So I say apart from the revenue needs, if, for example, the Canadian Pacific could be assured of its revenue requirements by some magic method, is there any reason why those differences should exist in those two forms of rates?
- A. When you speak of revenue needs and requirements, that is one thing. But preservation of revenue, that is another thing.

THE CHAIRMAN: Q. Preservation of what?

A. I said that preservation of revenue is another thing.

MR. COVERT: Q. Yes.

A. Maybe I can answer your question this way, if I understand it correctly.

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Distributing rates in eastern and western Canada could be equalized on a basis of preserving the railways' revenue; if you are not going to take into consideration like the matter of rates which,/the Crow's Nest grain rates, you are going to forget. But there is, however, this to be said: that, in equalizing distributing rates in the east and west by themselves, you might find the position that by reason of the increase of the rates in the east, and by reduction of the rates in the west, you might increase the competition with unregulated carriers in the east, and you might not be able to preserve your revenue.

- Q. Yes.
- A. But with that qualification, I won't say it cannot be done.

When equalizing rates between the east and the west, the distributing rates, you might find, over some distances, the rates in the east would be reduced, and in the west be increased.

But by and large, there would be more reductions in the west than there would be increases, and, naturally, more increases in the east than reductions.

- Q. Yes. I think perhaps, you have answered my question. All I wanted to find out was this: apart from revenue --
- A. Apart from revenue requirements; but are we going to preserve our revenue?
- Q. All right. Apart from revenue requirements, and apart from revenue preservation --
- A. I do not want rates without preserving our revenue.
 - Q. Is there any reason for different treatments?
 - A. Any reason for different treatments?

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- Q. Yes; that is to have a form of rate that only works one way in one place, and two ways in another?
- A. Outside of today's conditions, no. The same conditions do not prevail in the east which prevailed at the time the distributing rates or town tariff rates in the east were established.
- Q. My next point is to discuss with you the subject of equalization.

As I understand the position of the Cenadian Pacific, you say that there cannot be true equalization unless the Crow's Nest rates are taken out of the statute and are placed in the hands of the Board of Transport Commissioners, and unless the assumed mileage you mention there disappears, and unless there are some amendments to the Maritime Freight Rates Act.

- A. Yes, sir. I think that is what we said in our submission.
- Q. Now, does this mean that, for example, if the Crow's Nest Pass rates are not taken out of the statute, and these other items are not attended to, as you suggest, that you would oppose the equalization, or that you would not put forward your plan of equalization, as set out in your brief?
- A. I do not say we would not do it if we were required to do it. But we say that we do not think we should be expected to do it and have true equalization of rates.
- Q. I think I follow your position. You say that there just would not be true equalization because, for example, in the case of the Crow's Nest, there is this large volume for which you do not get a fair return.
 - A. That is right.

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- Q. Now, it might be argued that that meant that you were looking for equalization of revenue, or that you were looking at regional returns, when you suggest that. Do you follow me?
 - A. Regional returns?
- Q. Yes; that you are looking at the returns from a particular region, rather than the equalization of rates.
- A. Well, not necessarily. It all depends on how you are going to proceed with equalization; whether you are going to proceed with it on the basis of the rate level, or whether you are going to proceed with it on the basis of revenue preservation on our traffic that you are going to equalize, such as class rates, if you will, or cement rates, if you will, or live stock rates, or mileage rates; whether you are going to treat each commodity separately, and not treat everything as a whole.
- Q. And your argument is, of course, this: that these grain rates, then, should not be left out of the picture?
 - A. That is right.
- Q. Now, there have been attempts at equalization before. I think one was made in 1925, when there was a direction under P.C. 886, in 1925, and as a result, there came about the General Freight Rates Investigation.
 - A. Yes.
- Q. And there is another one now, under P.C. 1487 directive?
 - A. Yes, sir.
- Q. And I want to ask your view as to whether or not there could be complete equalization.

Let us assume, for example, in this, that your Crow's Nest rates are taken out of the statute.

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Railway Act, as it now exists, in view of the provisions of Section 314; and when I say that there could be, I suppose there could be if the railways co-operated?

- A. There is nothing to prevent it.
- Q. For example, when you have a provision "over the same line or route", won't that always give you, or give the railways an opportunity to prevent equalization?
- ${\mathbb A}$. Well, I think that is, perhaps, more or less technical.

I do not think we will ever have what you could term complete equalization, without dislocation of industry.

But you can have equalization of certain things. I do not think you can have equalization of everything.

- Q. What I was suggesting was: that perhaps, as far as the railway and the shipper are concerned, that as long as Section 314 is in the Act as it now exists, with that provision "over the same line or route", that the railways and the shippers will be on the same battleground that they were in 1925.
- A. That is a legal argument; but I do not know that point you are mentioning now was the reason why there was not equalization in 1925.
- Q. You have two answers, have you not, in attempting a complete equalization -- perhaps three; but you certainly have one: that the circumstances are not the same, the circumstances and conditions.
 - A. The circumstances are not the same?
 - Q. Yes?
 - A. Speaking of what?
- Q. Well, for instance, supposing someone in the west says that the rates are not -- that there is not

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complete equalization between west and east, and that the rates are not on the same level, that there is no real equalization.

The railways, in 1925 -- one answer they had was: the competitive conditions are different.

- A. Yes, sir.
- Q. That will be open to you?
- A. That will always prevail.
- Q. Similar circumstances and conditions; I suggest, may be another could be: you could say: the terrain is different here; the costs are higher?
- A. That is a matter -- if the Board of Transport Commissioners are going to proceed with a freight rates investigation on the basis of Order in Council 1487, that will all be argued out at that time.
 - Q. That is right.
- A. But if the railways are going to proceed with equalization, as far as they think equalization can be proceeded with, that is one thing.

But I would imagine that when you do proceed with equalization, whether it be class rates, or commodity mileage rates, or what not, you are going to have opposition from different sections of the country, because you cannot have equalization and preserve revenue without hurting somebody. Somebody is going to be hurt.

Q. Those arguments are open to the railways; and I suggest that as long as that part remains there, namely: "over the same line or route", that part of the section is there; and I wanted to find out whether or not -- let us assume that all conditions were the same except that one.

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- A. Which one?
- Q. "Over the same line or route". For instance, it might be that you were shipping from, let us say, a point in Manitoba to another point in Manitoba which was close to the Saskatchewan border.
 - A. Well - -
 - Q. Compare that with the case in Alberta?
- A. I cannot discuss the interpretation of the Railway Act, or the legal aspects of the Railway Act; but I can discuss it from the point of view of what might be accomplished, if it is put in a practical way.
 - Q. Yes.
- A. And as you said before, the Board of Transport Commissioners or whoever is dealing with the matter has the complete co-operation of the railways to accomplish that end, if it is at all possible to do so, or where it is possible to do so; but it cannot be done on everything, although it can be done on a lot of things.

THE CHAIRMAN: I think we shall adjourn now for lunch.

I would like to say that this afternoon, this being Friday, we shall adjourn again at 4:10 p.m., I think.

--- (At 1:00 p.m. the Commission adjourned until 2:45 p.m. today).

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AFTERNOON SESSION

C. E. JEFFERSON RECALLED EXAMINATION BY MR. COVERT CONTINUED

MR. COVERT: Q. Mr. Jefferson, there is just one further question about equalization. There would be a sound reason for not mentioning this constructive mileage, that is, the mileage between Edmonton and Vancouver and Calgary and Vancouver on the two lines, because that applies, as I understand it, only to grain. That is correct, is it not?

- A. That is correct, on grain, yes, sir; but the constructive mileage, so-called, is with respect to terminal class rates.
- Q. I understand that, but I say that particular one was not mentioned in the exceptions in the brief of the C.P.R.; they said that you could only put in true equalization if you did away with the Crow's Nest and wiped out that assumed mileage from Fort William and Winnipeg and so on.
 - A. That had nothing to do with the rates.
 - Q. Nothing?
 - A. No.

THE CHAIRMAN: The assumed mileage between Calgary and Vancouver is 776 miles?

- A. 766 miles from Edmonton/Vancouver.
- Q. I am saying that the assumed mileage from Calgary to Vancouver is --
 - A. 766 miles.
 - Q. What is the actual mileage?
 - A. 642 miles.

MR. COVERT: Q. My point is that I just want to get it clear that there is no point in mentioning



the disappearance of that in your scheme of equalization, because if the Crow's Nest Pass rate disappeared that would disappear with it.

Am I correct in that?

- A. I do not know. Not necessarily.
- Q. I suppose that, in any event, is an advantage to the C.P.R.
 - A. The constructive mileage?
 - Q. Yes.
 - A. On the grain rates?
 - Q. Yes.
 - A. Yes, sir.
- Q. I have one other point, Mr. Jefferson -THE CHAIRMAN: Q. That is the constructive
 mileage between Calgary and Vancouver?
 - A. Yes, sir.
- Q. But the constructive mileage from Winnipeg and Fort William does not apply on grain rates.
 - A. No, sir.

MR. COVERT: Q. I wish to take up briefly with you the subject of expiration rates, with specific attention to those rates which have been in for quite a long time. It has been represented to the Commission that there was a shock given to particular industries or shippers when the rates have been increased by these very large percentages; that is, where there have been especially low rates in for a long period of time, and you suddenly bring them to the ordinary level and then add the increases to them, that this has been a shock to particular industries. I think you probably have heard or seen these submissions which have been to the Commission.

A. With respect to what?

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- Q. Take particularly the rates, I think, seed grain, pure bred live stock and the agricultural exhibition rate.
 - A. Yes.
- Q. Those were extremely low rates, which were raised, I think, in some cases to an increase amounting to over loo per cent.
- A. That would be so, where the basis was like a half rate?
 - Q. That is right.
- A. But we increased them to the full rate and then increased the full rate 21 per cent and 8 per cent.
 - Q. I am just getting the background, Mr. Jefferson.
 - A. Yes, sir.
- Q. What I was trying to arrive at is this: supposing you were assured of your revenue requirements -- and perhaps I need to add here again, the preservation of your revenue as well --
 - A. Yes, sir.
- Q. Would you not admit that perhaps these rates should be raised a little at a time, if they had to be brought up to that level.
- A. Well, not necessarily, no. I don't know what you have in mind with respect to expiry rates. We have different kinds of expiry rates.
- Q. I do want to inquire as to the particular rates which I have mentioned.
 - A. Just those three rates?
 - Q. Those three, yes.
 - A. All right.
- Q. I think probably in each of these cases they were put in by the railways to encourage the industries. That is a pretty fair statement, is it not?

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- A. Well, the exhibition rate, I suppose you might say was put in not to encourage industry but to encourage the showing of stock at exhibitions.
- Q. Which in turn was to create an interest in pure bred stock, to improve the live stock generally throughout the country.
- A. That is more for the pedigreed stock movement, not the exhibition stock movement.
 - Q. Would not that all be for the same purpose?
- A. All for the same purpose in that you wanted to create and develop an interest in producing live stock?
 - Q. Yes.
 - A. Yes, sir.
 - Q. Then, as I say, in the matter of seed grain --?
- A. Seed grain was a case of encouraging the use of certified seed.
- Q. And that again would be generally considered to be to the advantage of the whole industry?
 - A. That is right.
- Q. My point is that these low rates -- and they are, I believe, admittedly low rates -- were put in_{to} effect to encourage industry, and they had been in all these three cases, I believe, for a long period of time.
 - A. That is right.
- Q. What I was trying to arrive at is, if it were not for the difficult revenue position in which you found yourself when you made these increases, would you not have felt that if you were going to raise these rates that they should have been raised a little at a time instead of a huge jump all at once?
- A. I think you would find that there would be opposition to the increase whether you did a little at a

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time or all at once; whether you take all three of the instances you mention, either individually or collectively, I do not think you could find that there was a hardship on any individual because, in the first place, the movement is not heavy and no individual uses the rates in any volume.

- Q. What you are really telling me is that regardless of the amount of the increases, that the individual effect is not great?
 - A. That is right.
- Q. And under those circumstances you say that a gradual increase is not necessary, and that it can be done in one jump?
 - A. I think so, yes, sir.
- Q. You do not believe then, that special provision should be made with respect to rates of that kind?
 - A. You mean in legislation?
 - Q. Yes, legislation.
 - A. No, sir, I do not think so.
- Q. You really base that, I think, Mr. Jefferson, on the fact that it does not have an adverse effect on the people paying it?
 - A. I don't think somo sir.
- Q. Then I wish to discuss shortly with you the question of export rates. My understanding is that the Canadian Pacific's main submission about export rates ing is that the differentials exist/between various shipping points in the United States and Canada must be preserved.
 - A. Yes, sir.

THE CHAIRMAN: You are talking of the Atlantic coast, Mr. Covert?

MR. COVERT: Yes; I think, as a matter of fact, Mr. Chairman, those are the only ones which have been



mentioned to us.

THE CHAIRMAN: I think so.

MR. COVERT: That is my recollection now.

THE WITNESS: There are export rates through the Pacific ports, where we keep Vancouver and Seattle on a parity.

MR. COVERT: Q. You do keep Vancouver and Seattle on a parity?

- A. Yes, sir.
- Q. May I put this to you: whether or not you that think that national policy might prescribe/certain ports in Canada should be built up, and special low export rates may be required to do this. . .?
- A. Our policy with respect to export rates is for the purpose of building up the ports.
 - Q. Whose policy?
 - A. The railway's policy.
 - Q. Is to build up Canadian ports?
 - A. Yes, sir.
- Q. And you say that the preservation of this differential that exists between Canadian and American ports, that that is a policy brought about by the railways to build up the Canadian ports?
 - A. Yes, sir.

THE CHAIRMAN: Q. And to keep the traffic?

- A. Yes, sir.
- Q. Which otherwise would go down through the United States?
 - A. Yes, sir.



A. Yes, sir. We will take Atlantic ports, if you will. If the railways did not preserve New York and Boston export rates through St. John and Halifax, it would be detrimental to St. John and Halifax.

MR. COVERT: Then, what you say is, that the export rates to Canadian ports are lower than they should be in order to preserve this differential?

- A. That is right. That is quite readily understood when you figure the distance from take Toronto, or any place up in Ontario or Western Canada, the distance to St. John or Halifax over Canadian railways is much greater than the distance to New York, Boston or Portland.
- Q. And as a matter of fact, some of these export rates are non-compensatory rates?
- A. Well, I do not say that they are in the main non-compensatory, but in our Submission we show that what we call the At. and East grain rates from Portland to St. John yields a much lower car revenue than the average.
- Q. Then, I say, that as a matter of business judgment and in the interests of national policy and to encourage traffic through St. John, you say that that rate is put into effect even though it is non-compensatory?

THE CHAIRMAN: Just a moment. We may as well have all of it. Do you consider or not consider that it is in the interest of the railway also to keep those rates low and have the traffic?

A. Yes, sir, because as I explained in my evidence, while some of the rates might be non-compensatory it brings other import and export traffic to the railway which is compensatory.

MR. COVERT: I would like to ask you this,

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- Mr. Jefferson, have either the Canadian Pacific or the Canadian National any interest in American routes that might conflict with the building up of Canadian ports?
- A. I can only speak for the Canadian Pacific. In so far as the Canadian Pacific is concerned, no, sir.
- Q. For instance, has the Canadian Pacific Railway lines running into, say, Boston or Portland?
- A. We have export rates to Boston and Portland through the medium of the Boston and Maine Railroad in the case of Boston and the Maine Central Railroad in the case of Portland.
- Q. My question was, has the Canadian Pacific in that case any interest in these American lines?
 - A. No.
 - Q. None at all?
- A. No financial interest in the American lines at all, no, sir. Of course, it all depends on what traffic you are talking about and where it is moving from and so on. There are a lot of qualifications, but there is a basis for rates to New York and Boston and Portland for export. How, you do not make the St. John export rate first and apply that to the United States ports; the United States ports rates are made first because they are the shorter distance. Then we extend that to the Maritime ports.
- Q. And you have to put in a lower rate because the Canadian route is longer but you put in a lower rate to preserve that differential?

THE CHAIRMAN: Would you call that in any sense a competitive rate?

A. The export rate from St. John and Halifax?

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- Q. Yes.
- Yes, sir.
- Then the competitive rate must be compensatory? Q.
- Yes, sir, we want them compensatory.
- And they are too, and they must provide a certain amount of surplus over out-of-pocket costs?
- A. Yes, sir, but in the one case that we showed in our Submission of the At. and East grain rates from Georgian Bay ports - -
 - Q. How far?
 - A. To St. John.
 - Q. You say that rate is non-compensatory? MR. COVERT: That is what their Submission says.

THE WITNESS: That is what we said in our Submission. It is dealt with at page - -

MR. COVERT: Mr. Jefferson, I think the only question I want to put to you is this, to get your views on, and that is as far asyou know there is no interest in American lines by Canadian Railways that would conflict with the interests of Canadian ports?

- A. I do not see how you can say there was, so long as they maintain an equality of rates. Now, don't think that the rate from a place like Riviere du Loup to St. John and Halifax for export is the same as to Portland or Boston; that is entirely another matter.
- Q. That is because there would be no export rate needed perhaps?
- A. There might be one needed, but the geography iswidely different, but I want to speak in terms of, say, Montreal and west.

THE CHAIRMAN: Well, there is no competition in

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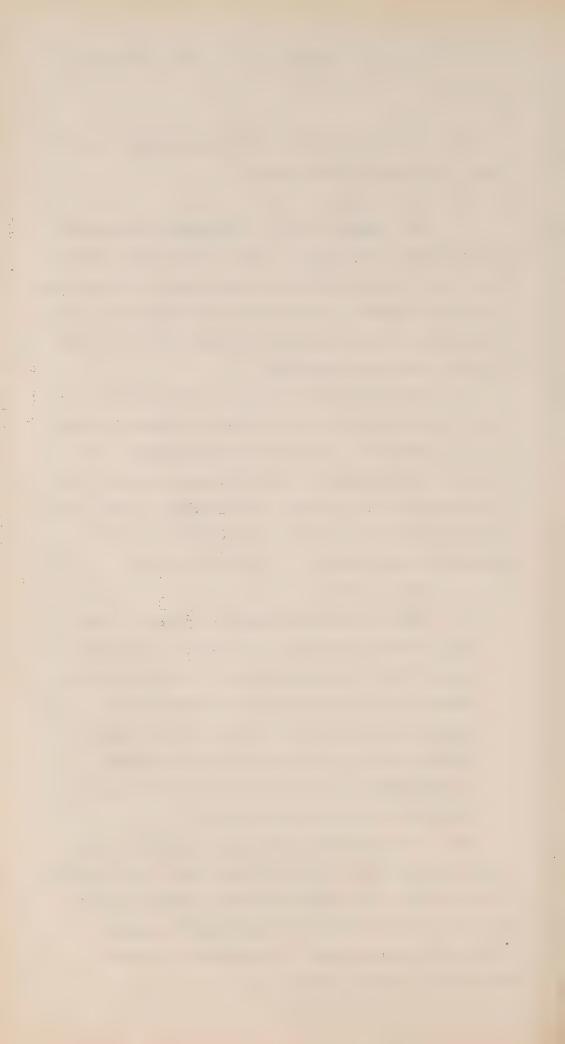
the case you mentioned now. There is no competitive route; they have to take yours?

A. That is right.

MR. COVERT: But you understood my question,
Mr. Jefferson. I think you feel that you have answered
it, do you, that as far as you know there is no ownership,
direct or indirect, of routes in the United States that
would bring about a conflict of interest as far as our
national ports are concerned?

- A. Speaking for the Canadian Pacific Railway, as far as the Canadian Pacific Railway is concerned, none.
- Q. Now then, on the subject of geographic and economic disadvantages, I think there is no need of my reading that portion of the Order-in-Council which sets up this Commission and which deals with economic and geographic disadvantages. I think it is 2(a).
 - A. What is that?
 - Q. "Review and report upon the effect, if any, of economic, geographic, or other disadvantages under which certain sections of Canada find themselves in relation to various transportation services therein, and recommend what measures should be initiated in order that the national transportation policy may best serve the general economic well-being of all Canada".

Now, I just wanted to know your opinion if any recommendations at all should be made under that section? I have in mind that perhaps you feel (you can correct me if I am wrong) that rates should not be adjusted to take into consideration geographic or economic advantages or disadvantages?



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- A. Well, perhaps I won't say never, but if I can get a concrete illustration I could deal with it.
- Q. Well, perhaps we can break it down a little more then. Would you say this, that there should be nothing in the Railway Act that would compel the Board of Transport Commissioners to take into consideration economic and geographic disadvantages?
- A. Well, as a traffic man, I would say, that if you do, then I do not care what the commodity is, or what the movement is, if you consider that with respect to one party, then other parties will want the same consideration.
- Q. And then, I suppose, you would go this far, Mr. Jefferson, that there would be perhaps no limit to what particular region or area might claim that it had a disadvantage?
- A. That is right. I mean, you can get the legislation so wide-open that it would be very difficult for both the railways and the Board to administer under the Act.
- Q. And you would say then, Mr. Jefferson, generally speaking that people must suffer from disadvantages and they have a right to hold any advantages they have geographically or economically and that freight rates as such, should not disturb them one way or the other?
- A. That is right, but I do not want to be considered as saying I do think the railways themselves are considering situations of that kind in the making of their rates.
- Q. And you say the railways should have that power to do that if they so desire, and if they think it

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in the interests of the railway. It may be advantageous to the railway and may bring revenue to the railway?

- A. Well, I think the railway should have elasticity to make freight rates, and, as I have always said - -
 - Q. On the basis of discrimination or preference?
- A. Yes, sir. I want to add, if the railways do not have that elasticity, then I am afraid that things might get into such a state that it would be harmful, not only to the railways (I am not just thinking of that alone) harmful to industry and harmful to the country.

COMMISSIONER INNIS: You think things might be worse?

A. Yes, sir.

MR. COVERT: But it is distinctly a power you say, that the Board of Transport Commissioners should not undertake?

THE CHAIRMAN: What is that?

MR. COVERT: A power that the Board of Transport Commissioners should not have.

THE WITNESS: Well, I would just say I do not know how they would adminster it if they had it. I think you would make it very difficult for them.

- Q. Therefore, they should not have it?
- A. That is right. I think it would make the situation very difficult for them.
- Q. Might I suggest this might happen? If they did have it, they might make a decision to put in a rate that would perhaps assist a certain locality, and then, if some other locality came along and asked for the same, the Board of Transport Commissioners themselves might be



put in the position that they would be an advocate of something they had already done?

A. That might be, but if you did it for one, and someone else came along, they would have some difficulty in determining where the line of demarcation would be.

THE CHAIRMAN: Do you remember there was some question the other day as to what extent, if at all, the Interstate Commerce Commission these considerations in fixing rates, to what extent the Interstate Commerce Commission in their Judgments take into consideration the economic factor?

- A. Well, I don't know what the Act permits.
- Q. As between localities. You remember we had it here. The case was about some railway reducing rates running out of Pittsburgh to the north, and those rates were opposed. I did not read the case, but from what I heard read, it would appear that partly at least, the Interstate Commerce Commission said, that these favorable rates out of Pittsburgh would militate against similar industries on other railways. Isn't that right?

(Page 16436 follows)

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A. Well, that was in connection with the horizontal--MR EVANS: That entered the question of reasonableness, and our Board would have exactly that same power here.

THE CHAIRMAN: Reasonableness?

MR EVANS: Yes.

THE CHAIRMAN: I would like to have that case. You gave it to me, I think.

MR EVANS: I may have given it to you, or Mr. Jefferson may have given it to you.

- Q. Do you remember that case, Mr. Jefferson?
- A. Well, I think what the Chairman is speaking about was statements that I made in connection with horizontal increases.

MR EVANS: That is the one.

THE CHAIRMAN: That is right.

THE WITNESS: And the reason why the railways wanted a maximum on the rates on iron and steel.

THE CHAIRMAN: Q. From Pittsburgh?

- A. From Pittsburgh we will say to New York, in comparison with the Bethelem district to New York, yes, sir. But perhaps I could answer your thought this way: As I understand it, under the Interstate Commerce Act the position of the railways in the United States is just the same as in Canada; the railways have freedom to---
- Q. Oh, yes; I am not discussing that; it is the position of the two boards that I am trying to compare, whether the Interstate Commerce Commission has a wider discretion in economic considerations than has our Transport Board?
- A. My understanding is that the two Acts are not dissimilar in that respect; I am stubject to correction.

MR EVANS: I think that is so.

THE CHAIRMAN: I remember there were two questions

arose on the same occasion. One was whether if at all, and to what extent, the Interstate Commerce Commission acted on considerations as between localities on different lines of railway, and also to what extent they had the experience of hearing consumers appearing before them and deal with freight rates from the point of view of the consumer of the goods; you remember that; we had those two points at the same time. So if anybody knows of any cases that would throw any light on either or both of those two matters, I would like to have them.

MR COVERT: Q. I just wanted to deal with this from one more aspect, Mr. Jefferson. There are apparently the two distinct views that have been put forward to this Commission: One is that the Board of Transport Commissioners should be able to take these matters into consideration and perhaps should develop them to an economic planning board, although I think nearly everyone has perhaps shied away a bit from that, perhaps because they do not like the name; on the other hand, there is the definite view that the Board of Transport Commissioners should have none of those powers---

- A. Have what?
- Q. That the Board of Transport Commissioners should have none of those powers, but that it should be left entirely in the discretion of the railways, and I think that the Canadian Pacific at page 33 indicated that the railways have mitigated but they cannot eliminate the geographic disadvantage of the distance from markets.

 Now, when you say they have mitigated it, I presume you mean that they have really done that by taper of rates?
 - A. Rates do taper as the distance increases.
 - Q. Yes.
 - Q. Yes, sir.

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- Q. And that would be what you meant by the mitigation of distance; you cannot eliminate it altogether, but you go that far by bringing about taper?
- A. Well, I do not know where this statement that you refer to is made.
- Q. I think it was on page 33. I think perhaps the word "mitigate" was my own. It is at the bottom of page 33:

"It is not possible to place all areas of Canada in the same position with regard to transportation advantages or disadvantages."

My point is that the railways make their position very clear, that you cannot eliminate the disadvantage of distance, and you have perhaps mitigated the disadvantage of distance by tapering of rates and so on?

- A. To that extent, yes.
- Q. It is on page 32:

"Thus, the railways have mitigated, while they cannot eliminate, the geographic disadvantage of distance from markets."

- A. Yes, sir, I see that now.
- Q. And I suppose you would say also, Mr. Jefferson, that the railways, by bearing in mind what the traffic will bear, have also perhaps on many occasions mitigated the results of distance from markets?
 - A. Yes, sir; I say we have, yes.
- Q. And you would feel that from a business point of view perhaps that is about the only way it can be left, in the hands of the railways?
 - A. I think so, yes, sir.
- Q. And if any other method of rate-making were imposed upon the railways it might mean that a good many of these rates might be imposed that were non-compensatory?
 - A. I do not know about that. I would have more fear

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that things would become so rigid that it would react to the disadvantage of Canada.

- Q. And you would perhaps be upsetting vested interests -- perhaps "vested interests" is an unhappy phrase, but industries built up on the basis of advantages might be subject to some dislocation if you put in rates that would make up for disadvantages some other place?
- A. Well, I don't know that I get the purpose of your question; I have not followed it.
- Q. All I am saying is that if an industry is built up on the basis of advantages that it has, and if you put in---
 - A. Its natural advantages?
 - Q. Beg pardon?

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- A. Its natural advantages?
- Q. Yes, its natural advantages; and you put in rates to another place that is suffering from disadvantages, it may affect that industry already established, built up on its natural advantages?
- Q. If we gave a rate to -- I will illustrate it by saying A to C.
 - Q. Yes?
- A. And A has an advantage in reaching C; B has a disadvantage.
 - Q. Yes?
- A. Now, if we gave B A's rate we might not be fair to A; is that what you mean?
 - Q. That is right.
 - A. Yes, sir.

THE CHAIRMAN: Q. Pordon me, then; have you in mind two points both on your own line of railway?

- A. Maybe, yes, sir.
- Q. Well, but have you that in mind?

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- A. Have we such? Oh, we wouldn't.
- Q. Is that what you have in mind, I say?
- A. Oh, yes, sir.
- Q. Suppose the two points were different, one on your line and one on another line, then would you have the same--
 - A. Well, we would have no control of the situation.
- Q. No, but in granting a rate it might be more favourable to the locality on your line over the locality on the other line; would you be constrained by the same fear of creating an unfavourable position for the other people?
 - A. Well, I will illustrate it this---
- Q. Because, as I understand our Railway Act so far, unjust discrimination is only that granted by one railway as between two points on its own line?
 - A. That is right.
 - Q. That is right, is it?
 - A. Yes, sir.

MR SMITH: If your lordship pleases, you asked about a case about consumer interests. Perhaps at this time it would be convenient if I gave you a case on that point from the United States.

THE CHAIRMAN: I would like to have it. What case is it?

MR SMITH: It is the case of the Ayrshire Colleries
v. The United States, reported in the United States Supreme
Court Advance Opinions, volume 93, number 5.

THE CHAIRMAN: Is that in the library here?

MR SMITH: Yes. It is a pamphlet copy I got from the library. It is decision number 5, at page 220.

THE CHAIRMAN: Thank you.

MR SMITH: And the headnote reads as follows:

"Carriers' rate structures are not designed mere-



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ly to favor the revenues of producers and carriers, but to safeguard consumer interests as well by equalizing access to markets."

The opinion is the opinion of Mr. Justice Douglas, delivering the judgment of the Supreme Court of the United States.

THE CHAIRMAN: Well, thank you. We will not go any further into it now, so as not to interrupt Mr. Covert's examination. I am glad to have that.

(Page 16443 follows)

MR. COVERT: Q. Now, Mr. Jefferson, I would like to discuss with you the question of horizontal increases.

- A. Yes, sir.
- Q. On Page 26 of the Report of the Duncan Commission it is stated:

"The railway administration, in giving evidence before us, agreed that long distance traffic, particularly heavy traffic, had been seriously prejudiced by the operation of the horizontal increase."

That, I believe, was back some time in 1926; the evidence of the railway administration was given some time in 1926. I was just wondering if by any change you had appeared before the Duncan Commission.

- A. No, I was in the west at that time.
- Q. Do you know whether or not anybody from the Canadian Pacific was called before the Duncan Commission?
- A. I am not positive; there may have been; I wouldn't be surprised if they were, but I couldn't say who it was.
 - Q. Do you disagree with that statement?
 - A. Do I disagree with it?
- Q. Yes, not the fact that the railway administration gave evidence before them, but do you disagree with what apparently was the opinion of the railway administration at that time in 1926?
 - A. Who made the statement?
- Q. In the report of the Duncan Commission, Sir Andrew Duncan says that the railway administration in giving evidence --
 - A. I thought you said the railway commission.
 - Q. No, the railway administration.

- A. Yes, sir.
- Q. I just want to know first, if you disagree with that statement?
 - A. Would you read it for me again.
 - Q. It reads:
 - "...long distance traffic, particularly heavy traffic, had been seriously prejudiced by the operation of the horizontal increase."
- A. I agree with it, as I have said, to the extent that the long distance traffic going to any given point receives/greater unit increase than shorter distance traffic going to the same point.
 - Q. That is purely mathematical.
 - A. Yes, sir.

THE CHAIRMAN: I am not quite sure that I understand what that statement means. The traffic has suffered, does that mean that there is less traffic than there would otherwise be?

MR. COVERT: I don't think SMr. Chairman.

THE CHAIRMAN: Will you read it again, please?

MR. COVERT: "The railway administration,
in giving evidence before us, agreed that long
distance traffic, particularly heavy traffic,
had been seriously prejudiced by the operation

THE CHAIRMAN: If the traffic had been seriously prejudiced, does he go on to say what he means by that?

of the horizontal increase."

MR. COVERT: The report continues:

"It was, they said, their opinion, that even on the present level of class rates, and considering expenses, the higher class

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goods are not carrying their full share of the

expenses of operations. They had made the
suggestion to the Board of Railway Commissioners
some two years ago -- at a time when a reduction
in class rate was being considered -- that instead
of reducing the class rates, they should select
what was considered basic commodities such as,
grain, forest products, coal, iron and steel."
He goes on to say:

"The Railway Board, we were informed by the R_ilway Administration, felt themselves prevented from working out the proposition in that way, since when the advances were made they were made horizontally, and some declaration had been made at the time that when reductions came they also would be made horizontally."

The report continues further:

"In view of the importance of railway rates to long distance and heavy traffic, we have no hesitation in recommending that the matter should be taken into fresh consideration by the Railway Commission, that they should be relieved from the necessity of regarding themselves as bound by any such declaration as is referred to, but should be free to consider the whole question on its merits."

It seemed to me that in the whole context he is coming to the conclusion that the higher rates on traffic should bear its full share, and that the long distance traffic --

THE CHAIRMAN: That may be, but the language used there suggested that long distance traffic was



suffering. I think I understand what is meant now.

Is there anything to show whether or not the Board of Transport Commissioners have put into effect the recommendation that the Duncan Commission made there?

MR. COVERT: I think, Mr. Chairman, that this particular phase of the matter was fully discussed before us when Mr. Forsyth gave evidence in Montreal, and his complaint was that although it had been recommended by

this Commission and other Commissions, that nothing had ever been done with it.

THE CHAIRMAN: By the Board?

MR. COVERT: By the Board. I wanted to find out first from Mr. Jefferson if he thought there was something wrong with that statement, or whether he disagreed with it.

- Q. That is, whether or not long distance traffic, particularly heavy traffic, had been prejudiced by the operation of horizontal increases?
- A. Not from the evidence that I have given you, no. I don't understand these paragraphs that you are reading. It seems to me that this is just what was done; that in 1920 the rates to eastern Canada were increased 40 per cent. That was in September 1920. Then on January 1, 1921, that 40 per cent was dropped to 35 per cent. Then on December 1, 1921, it was dropped to -- I have forgotten whether it was 30 per cent or 25 per cent.

MR. O'DONNELL: 25 per cent.

THE WITNESS: 25 per cent. The rates went up horizontally; they went down horizontally. In August 1922 the Board did reduce the basic commodities, and the basic commodity rate instead of being at a 25 per cent increase over the rate prior to September 1920, was reduced



to a basis of $12\frac{1}{2}$ per cent of the rates prior to September 1920; and those basic commodity rates on heavy commodities that you are talking about were reduced horizontally.

MR. COVERT: Q. You are referring now to the statement following, are you not, that "the Railway Beard, we were informed by the railway administration --"

- A. Where is that?
- Q. It is at Page 27.
- A. Yes, sir.
- Q. Is that what you are referring to?
- A. Yes, sir.

THE CHAIRMAN: Will you read it for us?

MR. COVERT: That is the part I read before,

Mr. Chairman:

"The Railway Board, we were informed by the railway administration, felt themselves prevented from working out the proposition in that way, since when the advances were made, they were made horizontally, and some declaration had been made at the time that when reductions they also would be made horizontally."

That, I think, is what Mr. Jefferson is saying, that when they made reductions they made them horizontally.

- Q. But as I understand it, Mr. Jefferson, the railway administration asked that special consideration be given, not just horizontal reductions, but that the special consideration be given to select commodities which included grain, forest products, coal, iron and steel.
- A. And that is what was done in the summer of 1922.

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- Q. I think perhaps we are at cross purposes on that.
- A. That may be.
- Q. I don't think that is the point.
- A. I have explained to you what was done.
- Q. That is not the point that I am really interested in, Mr. Jefferson; and I am not interested in whether or not the Duncan Commission properly sets out the facts. My understanding is that it does. But on this that is not the point. My only thought/is whether or not you think that long distance traffic, particularly heavy traffic, is seriously prejudiced -- or leave out the word "seriously" -- is prejudiced by the operation of horizontal increases.
- A. I have said on different occasions, no, but I gave my reasons for saying no.
- Q. Do you think that that was not the situation in 1926 when the railway administration apparently made that statement to the Duncan Commission?
- A. It might depend on whether prices were going down or prices were going up; I don't know.
 - Q. In 1925-26.
- A. In 1925-26, as I recall it, prices were stiffening. In 1926 it was what I think they called a boom year. In 1927, 1928 they started to recede, and in 1929, much more so; 1929 was the early beginning of the depression period.
- Q. But today, as far as you are concerned, you say that the horizontal increase does not prejudiciously affect it?
 - A. That is right.
- Q. Regardless of the paternity of the exceptions to the horizontal increases in the United States, it is a fact apparently today that the railways of the United

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States do recognize that long haul traffic does need to be treated differently, because they very often suggest these exceptions.

- A. That is right.
- Q. Dollar-and cent-wise, you would agree, Mr. Jefferson, that the man located at the longer distance from a market compared with the man located near the market does suffer from the horizontal increase; that is, dollar-and-cent-wise, he pays out more for freight.
- A. I don't say he suffers, but his transportation costs go up by a greater amount.
- Q. His transportation costs do go up by a greater amount?
 - A. Yes.
- Q. And if his transportation costs are part of his cost/production, then dollar-and-cent-wise he is worse off than the fellow who is near, but he may not have to suffer them before perhaps the rise in prices?
- A. He is no worse off; in fact, he is better off if the price has gone up by a greater percentage than the transportation charges.
 - Q. He is better off than he was before?
 - A. Yes.
- Q. But he is not better off than his competitor from the moment the horizontal increase goes into effect ...
- A. But, Mr. Covert, we will take for instance/market, say Toronto, and one man is shipping 100 miles from

 Toronto and another man shipping 200 miles. Now, if the

 man 200 miles from Toronto could compete with the

 man 100 miles from Toronto before the horizontal increase

 was made, he could still compete after it was made, if

 his prices had gone up by the same amount or a much greater

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amount than the transportation charge, because his costs would not have gone up any more than -- I am speaking now of his plant costs, which would not have gone up any more than his competitor's.

- Q. If that is the assumption --
- A. I don't think it is an assumption; I think it is a fact.

THE CHAIRMAN: Q. What kind of costs did you say?

- A. His operating costs, his plant costs, if he makes the same product.
 - Q. You are excluding his transportation costs?
 - A. Yes, sir.
- Q. As a matter of fact, these transportation costs had gone up by a greater amount than those of the other person 100 miles away.
 - A. Per hundred pounds, yes, sir.

MR. COVERT: Q. Mr. Jefferson, I would now like to ask you again, assuming that the railway's revenues could be safeguarded, that is that you are assured of perhaps a fair rate of return on your net property investment, would you not agree under circumstances of that kind that some specific consideration should be given to long haul traffic, especially in a country like Canada, where you do have a so-called "strip-like" economy, and a large part of our production is the production of basic commodities.

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- A. Well no, I don't think that that would be fair to the industry nearer by the point of consumption.
 - Q. Well, let us take this case. Suppose -
- A. That is all contained in the tables on page 57 and 58 of Part II.
 - Q. Do you mean the answer to my question is?
 - A. Yes, sir.

THE CHAIRMAN: What page are you looking at?

A. 57 and 58 of Part II.

MR. COVERT: That is not an answer to my question, Mr. Jefferson. I have asked you this: assuming that the revenue of the railway were assured, that is, you had a method of arriving at rates so that you could get the proper amount of revenue, now, under circumstances like that, would you not agree that some consideration should be given to long haul traffic especially in a country like Canada with its strip-like economy, socalled, and where it does to such a large extent produce basic commodities?

- A. I would say, it might prove unfair to the man nearer the market.
- Q. That would be a reason, you think, for not having exceptions to horizontal increases on long haul basic commodities?
- A. Yes, sir. We ran into some trouble when we removed the Mountain Differential. We had complaints from people in British Columbia whose rates were reduced by the removal of the Mountain Differential more than someone else's rates were reduced.

THE CHAIRMAN: Whose rates were what?

A. Were reduced more than someone elses' rates were

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reduced by the removal of the Mountain Differential. It is just the reverse. The man nearer by did not like to have the man further away reduced more than the man nearer by.

MR. COVERT: I understand that, Mr. Jefferson, but I don't think that that answers my question. You see in - - was it in 1918 that you had the 25 Percent increase?

- A. Yes, sir.
- Q. Now, in that case there was considerable attention paid to limititions on long haul horizontal increases. Now, for instance - -
- A. The 1918 increases both in labour and freight rates were increased in the same manner as in the United States.

THE CHAIRMAN: 1918 did you say?

A. In 1918.

MR. COVERT: But in 1918 you did make exceptions in the case of iron ore?

- A. Yes.
- Q. And stone?
- Α. Yes.
- Q. Sand and gravel?
- Α. Yes.
- Q. Cement, lumber and plaster, lumber, forest products, pulpwood?
- A. Yes, but in either east or west or one of them not necessarily in both areas.
 - Q. But in either one or both you did?
- A. There was a different situation in the east and in the west.
 - Q. Yes, that is right, and you made it on mill

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products and livestock, sugar. All I am saying is, that at that time - -

- A. Not on sugar, no.
- Q. Well, let us put it this way. Is it fair to say, that on a large number of basic commodities, you did make exceptions to the horizontal increases?
 - Α. That is right.
 - Q. Now, you did it in 1918?
 - Α. Yes, sir.
- And that indicates clearly that the power is there in the Board?
- That was not done by the Board of Transport Commissioners, the 25% increase in August 1918, was by an Order-in-Council.
- Q. Now, could I ask you this, Mr. Jefferson? Who made these suggestions about limitations on these basic products at that time?
- A. Well, I was at the meeting when it was done, so I can tell you how it was done. They had the wage increase in the United States. They had the wage increase in Canada, and during the war Canada had to make the wage increase and it was understood that the freight rates would be increased in Canada just the same as in the United States under the so-called McAdoo Award, and we sat over in the Board of Transport Commissioners for days and worked on the draft Order-in-Council for the increase in freight rates in Canada, and the only differentiation between what was done in Canada and the United States was in Western Canada where the Board themselves felt that the Canadian railways should, in many instances eliminate the 15% increase that had been made in March of the same year.

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In the east, the increases were compounded.

- Q. The Order-in-Council, Mr. Jefferson, was made pursuant to a report of the Board of Railway Commissioners for Canada?
 - A. That is right.
- Q. And after discussion between the members of the Board of Railway Commissioners and the railways?
- A. It was considered the most expedient way to do it, because wages had gone up just the same in Canada as in the United States and that freight rates should go up the same in Canada as the States.

THE CHAIRMAN: I am assuming, of course, that the Order-in-Council was made under the authority of the War Measures Act, or whatever it is.

MR. COVERT: I presume it was, Mr. Chairman.

MR. O'DONNELL: The Decision was to remain in force for the duration.

MR. COVERT: Yes, it was under the authority of the War Measures Act. Now, my first point, Mr. Jefferson, is that there were exceptions made to a horizontal increase. That was recommended by the Board of Railway Commissioners, and you say you were present?

- A. Yes, sir.
- Q. And do you agree that this was done; as I have
- A. As I have explained to you, it was agreed that it was the way to do it and to do it quickly, when at that time you were increasing wages in Canada identically with the United States, that you should increase freight rates identically with the United States and get it done quickly.

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- Q. Do you think it was the wrong method of approach?
- A. Not at that time, no.
- Q. But it would be today?
- A. It would be today, yes.
- Q. Now, in another case in Canada, Mr. Jefferson, there were exceptions made to horizontal increases on some commodities?
 - A. What case was that?
- Q. I thought you would probably be able to tell us more quickly than I could?
- A. There were so few in Canada, that I cannot tell you, sir.
- Q. In the 40 Percent Case, in 1920, were there exceptions made at that time?
- A. The only exceptions made in the 40 Percent Case outside of coal and coke (I don't think coke was even included; it was just coal) outside of coal was sand, gravel and crushed stone. These were not given any increase and cordwood, edgings, mill refuse and slabs used exclusively as fuel were only increased 10%. Now, those are the only exceptions, and the Judgment explains why those exceptions were made.
- Q. For example, in the case of crushed stone, sand and gravel, the Commissioners, I think, said to the rail-roads:-

"Nothing is more urgently required than the improvement of our highways, and an increase on rates on these materials would defer this much needed improvement."

A. But the exceptions had nothing whatever to do with horizontal increases. That is the point.

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- Q. Well, my only suggestion, Mr. Jefferson, is that there have been cases where basic commodities have had some exceptions made?
- A. Not in cases of horizontal increases, none in Canada at all, except in that 25% Case.
- Q. And then, would you say this, that apart from the time that the arrangement was made on the recommendation of the Board of Railway Commissioners in consultation with the railways and brought about by an Order-in-Council under the War Measures Act, that no special consideration - -
 - A. Since that time?
- Q. Either before or since has been given to making exceptions to horizontal increases in Canada?
- A. I do not recall at the moment (I will look) whether the 15% increase in March of 1918, whether there were any exceptions in that or not.
- Q. Now, in that case, I think the Board said, that sand, granite and crushed stone could not stand a 15% increase, and limited the increase to 5ϕ a ton?
 - A. Yes.
- Q. And in dealing with the lumber rate situation, the Board recognized the difficulties, and the question was, how to increase lumber rates without dislocation of traffic by changing the rate relationship?
- A. The only other exception was the lumber, outside of the Crow's Nest grain, and the increase on the grain rates was held down to 2¢ so you would not exceed the statutory rates.
- Q. Then, would it be fair to say that as far as Canada is concerned, the Board of Trainsport Commissioners or its predecessors have not paid muc.h attention to the granting of exceptions to horizontal increases. (Page 16457 follows)

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- A. I won't say they have not paid attention to it, but they have not---
- Q. Well, put it this way, that they have not created many exceptions?
 - A. That is right.
- Q. And would it be likewise fair to say that the only time that it was done, to any great extent at least, was when it was done in 1918 pursuant to that Order in Council?
 - A. That is right; and at that time no consideration---
 - Q. And that was at a time---

MR O'DONNELL: Let him answer. He said, "At that time no consideration"---

THE WITNESS: And at that time no consideration whatever was given to the matter from the point of view of whether the increase would be horizontal or otherwise. We adopted in Canada the pattern of the McAdoo award in the United States.

MR COVERT: Q. There were quite a few exceptions to the McAdoo award, the treatment in Canada and the United States, were there not, in that decision?

- A. Not so far as the east was concerned. The only exceptions that I recall was in the west, and the exceptions in the west was that the increase under Order in Council P.C.1863 had to include the 15 per cent increase that had been made earlier in the year. They could not compound the two on certain things.
- Q. And if the McAdoo award in the United States -if the result of their increases there took into consideration the question of exceptions to horizontal increases,
 and that in turn was reflected in the report of the Board
 of Railway Commissioners adopted by Order in Council, then
 in effect in the drafting of those exceptions in Canada

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it is a mere accident in a way in effect, because they had been adopted in the United States?

- A. As I said, it was the most expeditious way to do it.
- Q. At the time when the members of the railway sat down with the members of the Board of Railway Commissioners, were there any representatives other than the railway representatives present, do you remember?
- A. I do not remember. I was only an assistant general freight agent then; I was more of a helper. If there was any there, it was only the Canadian Manufacturers' Association and the Toronto and Montreal Boards of Trade. Whether they were there or not I have forgotten.
- Q. Now, I want to put this to you, Mr. Jefferson: Suppose the railways could go to the Board of Transport Commissioners and get a temporary increase quickly, on the basis of a horizontal increase; supposing, for example, in the 30 per cent application they had got 30 per cent within a month?
 - A. Yes, sir.
- Q. Now, suppose that were put in the form of an interim increase---
 - A. Of a what?
- Q. In the form of an interim increase, for a definite fixed period, say six months to a year, to enable the railway companies to obtain traffic statistics and to ascertain the effect that this horizontal increase might have on long-haul traffic or basic commodities, and the railways were told that at the end of that prescribed time they had to come back to the Board of Transport Commissioners and show them these traffic statistics and indicate whether or not the horizontal increase had adversely affected long-haul traffic; would you say that that would

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be a satisfactory position as far as the railways are concerned?

- A. You mean you would put the responsibility on the railways?
 - Q. Yes.
- A. Yes; and the shippers would not have anything to say about it?
- Q. Well, the award is then temporary; at the time they come back to make it permanent, that would be the time when the discussion would arise, rather than at the time when you are asking for your revenue requirements; the rate will give you your revenue requirements. Would you think---
- A. You want to substitute something else for the 30 now? I don't know that I follow you, Mr. Covert, but if I do follow you, as I understand you say if we apply for a 30 per cent increase and get a 30 per cent increase at once.
 - Q. That is right.
- A. Interim increase. Then we are told in six months, "Now, come back with a new pattern and tell us what you are going to substitute for that 30 per cent increase"?
 - Q. Yes.
 - A. Observing the effect of the horizontal increase?
 - Q. Yes.
 - A. On certain industries and trade and so on?
 - Q. Yes.
 - A. Could we do it?
 - Q. Yes.
 - A. Is that your point?
 - Q. Yes.
- A. Well, it could be done, but I am afraid that after the railway studied it and took out what figures it could, then by the time we got back we will say the provinces, which we have had with us for some time, would object to it.

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Then we would have to start all over again.

- Q. Well, you would still be getting your 30 per cent all the time?
 - A. Sure, yes, sir.
- Q. I just wanted to know whether or not you thought that that was practical at all?
- A. It is practical to the extent that the railways could make an estimate on what they might consider should replace a horizontal increase, if they thought some recognition should be given to maximum, but when you got back and nobody agreed with you, how much further ahead would you be?
- Q. Well, you have the Board of Transport Commissioners to determine that; but my point is, wouldn't you say that the railway---
- A. No, but my point there was that when you got back and the provinces or someone else wanted to change the scheme all over, then you would have to go back and take your figures out all over again, just to find the effect of the change.
- Q. Would not the railways be in a position to give traffic statistics better than anyone else on that subject? Wouldn't they be able to show whether or not the actual traffic had continued to move?
 - A. You mean during the period of the increase?
 - Q. Yes.
- A. Yes, but it would mean a way bill study. There is no human being that can tell you what all the traffic is that they move. It has all got to be done statistically.
- Q. Would not the railways be apt to get complaints under those circumstances, and couldn't you follow them up to see whether your customer was being hurt?
 - A. Yes, sure; individual complaints, yes, sir.

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- Q. Well, what I wanted to find out, as I say, is whether or not you think a system of that kind would work, and you tell me no?
 - A. No, because, for instance---
 - Q. Your answer to that is no?
- A. No. Supposing the sugar man down east here said that Saint John and Halifax had a horizontal increase that prejudicially affected him, and the sugar man at Montreal or in Vancouver or the Alberta man was not quarrelling about it, how are you going to find out your sugar revenue and how much it would affect your sugar revenue? You would have to have the revenue on sugar from each point of origin where the complaint was involved.

THE CHAIRMAN: Mr. Covert, you are not finishing today with Mr. Jefferson?

MR COVERT: No, I have not.

THE CHAIRMAN: Well, we are very sorry to bring you back again, Mr. Jefferson. You have been very patient, but you are so extremely useful to us that we shall have to ask you to come again on Monday.

THE WITNESS: I will be back, sir.

⁻⁻⁻The Commission adjourned at 4:10 p.m., to meet again on Monday, February 27, 1950, at 10:30 a.m.

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO MONDAY FEBRUARY 27, 1950.

THE HONOURABLE W.F.A.	TUREGON,	K.C., LL.D CHAIRMAN
HAROLD ADAMS INNIS		- COMMISSIONER
HENRY FORBES ANGUS		
		- COMMISSIONER
G.R. Hunter Secretary	***************************************	P.L. Belcourt Asst. Secretary
COUNSEL APPEARING: -		
F.M. Covert, K.C. G.C. Desmarais, K.C.	}	Royal Commission on Transportation
H.E. O'Donnell, K.C. H.C. Friel, K.C.	}	Canadian National Railways
F.C.S. Evans, K.C. I.D. Sinclair	}	Canadian Pacific Railway
C.D. Shepard)	Province of Manitoba
M.A. MacPherson, K.C.)	Province of Saskatchewan
J.J. Frawley, K.C.)	Province of Alberta
F.D. Smith, K.C.	}	Province of Nova Scotia; Transportation Commission of the Maritime Board of Trade.
J. Paul Barry) :	Province of New Brunswick
C.W. Brazier) 1	Province of British Columbia
J.O.C. Campbell, K.C.) [Province of Prince Edward Island.

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Ottawa, Ontario, Monday, February 27, 1950

MORNING SESSION

---The Commission met at 10.30 a.m.

C. E. JEFFERSON, RECALLED

EXAMINATION BY MR. COVERT (Cont'd)

Q. Mr. Jefferson, I want to deal a little more with the question of horizontal increases. First I wish to call your attention to a few of the statements made in the 21 per cent case. At page 46, near the bottom of the page the Chief Commissioner said:

"To what extent shippers' markets would be actually restricted is, I think, unpredictable."

A Yes.

Q. He also made the statement!

"There is nothing on the Board's records to show what the situation was with respect to that feature following the general increase in rates authorized in 1918 and 1920."

Just before that he made the statement:

"This general statement was not supported by an evidence with respect to actual traffic movements."

Then at page 65 at the top of the page, the second sentence, he said:

"But, as I view the matter, this is the only workable and practical method of dealing with the question in order to provide the additional revenue required by the railways."

Then in the second paragraph, starting about the middle of that paragraph, he says:

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"One difficulty with respect to the adoption of a varying or maximum increase is apparent, namely, the lack of reliable traffic statistics from which to determine the additional revenue which would accrue from flat or maximum increases on particular commodities."

Then he went on to say,

"Further there is not on the record anything to enable any determination concerning the commodities and sections of the country, and even the individual rates which could best bear the burden of an increase."

I want to ask you if you thought that that indicated that there was something lacking on the part of the Board of Transport Commissioners, that is, they should have perhaps had some more information as to that?

- A. I don't know how the Board of Transport Commissioners could be expected to have traffic statistics ' that would give them information of a character that would enable them to deal with a subject of that kind. Now you can have traffic statistics on any given commodity, showing the number of tons carried and the number of miles hauled, and the revenue on that particular traffic, but it doesn't give you the movements of that traffic; and the only way you can develop the movements of the traffic is waybill studies.
- Q. Then I just put it to you: you do not think that this indicates any lack of proper information in the hands of the Board?
 - A. No, sir.
- Q. Now I would like to call your attention to a case before the Interstate Commerce Commission, Ex Part 162, 266 Interstate Commerce Commission Reports, at page 537.

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I think it goes over some ninety pages, to page 626.

- A. What was the page again?
- Q. Starting at page 537.
- A. What page do you want?
- Q. I shall take you to several pages. I am suggesting to you that in that case they seem to have traffic statistics of that nature. I take you to page 560, for example, where they are dealing with cotton. For instance, they go into the average length of haul, and the number of movements; they discuss the minimum and maxima, and so on. They set out both sides.

with fresh fruit and vegetables, and they deal particularly in 19 with the total movement increase of from 805,098 carloads/ to 1,106,000 carloads in 1945. They refer to the keen competition, and the predominantly long haul, and so on. They take animal and animal products. Then at page 564, and going on to page 567, I suggest to you that it would seem in that case the I.C.C. would appear to have the information. I think the information was supplied to them both by the railways and, I think, by the Secretary of Agriculture?

A. Yes.

MR. O'DONNELL: Yes, but did not the interested parties appear and make the evidence themselves?

THE CHAIRMAN: I did not hear your comment.

MR. O'DONNELL: It occurs to me that the interested parties themselves appeared and saw to it that the evidence was put on the record.

THE CHAIRMAN: Yes, I think that was the case where they had over one hundred counsel. It may be that the information was furnished that way; I don't know.

MR. O'DONNELL: Yes, it could have been done here.

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MR. COVERT: I suggest that is a fair question to ask Mr. Jefferson.

THE CHAIRMAN: Yes.

MR. COVERT: I asked him if at least it would not appear that the Interstate Commerce Commission had that information before them.

- Q. They apparently regarded it as important?
- A. No doubt they had some information before them. I am not denying the fact that the Interstate Commerce Commission and the railway in the United States has more detailed information than has the Board of Transport Commissioners or the railways in Canada, in that they keep statistics of certain kinds, with a greater breakdown in the United States than we do in Canada, to the extent that we have the breakdown, the information is available, but not available to the same extent as in the United States.
- Q. Now, Mr. Jefferson, do you recall the results of the hearing, Ex Parte 162, which was a combination of 162 and 148? I think in the main there was a 20 per cent increase in the basic freight rates and charges?
 - A. It is how much?
- Q. It is a 20 per cent increase in basic freight rates and charges. You will find that on page 614,

"Except as otherwise specifically provided in these findings or in the appendix thereto, all basic freight rates and charges of the petitioning rail and water carriers, justly and reasonably may be increased for the future by 20 per cent."

A. That may be, but the increase varies in different territories, and it varies on different commodities.

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- Q. That is true?
- A. Yes, sir.
- Q But generally speaking I think it was an increase of 20 per cent, was it not?
- A. I may have been worked out on somewhat of an average of 20 per cent, but it certainly wasn't a basic 20 per cent increase. Take class rates, for instance; in that case, in an official territory class rates increased 25 per cent; in the south and western parts, the official south and west territory, $22\frac{1}{2}$ per cent; and within and between the southerly and westerly territory, 20 per cent.
- Q. That is perhaps a better summary of it, Mr. Jefferson?
 - A. Yes, sir.
 - Q. Then would you turn to page 613?
 - A. Yes, sir.
 - Q. In the conclusions you will see these words:
 "We therefore pass to our ultimate findings.

Before stating them we think the following obserVations should be made. There are here involved all freight rates and charges, and all passenger fares on railways and many other carriers of the nation, large and small. What we do will directly affect production and distribution in the industries of the nation, and the welfare of those various regions, as well as the transport industry. It will have its effect on the forces tending to economic stabilization or the reverse. We have accorded every reasonable opportunity for those in any way affected to be heard, while pressing the proceding with as much speed as the size and complexity and

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detail of the proposals permitted. No case has
ever received from us more earnest study."

I wanted to call that to your attention, because it
seems to me that there is a recognitionby the Interstate
Commerce Commission of the extreme importance of an
increase in freight rates for that amount, and it indicates
that they feel that it will directly affect production and
distribution in the industries.

- A. Of course there is one point that I want to emphasize, and that is this: that the statements you have just read are very general. The decision that we are discussing, the Interstate Commerce Commission Ex Parte 162, made exceptions in that they modified the percentage from 25 per cent down as low as 15 per cent; but that was merely exception to the percentage increase.
- Q. Yes. What you are talking about now is what they left in that case -- it was still a horizontal percentage?
 - A. Still a horizontal increase.
 - Q. Of a lesser amount?
- A. Of a lesser amount, but still horizontal, which is entirely separate from horizontal with a maximum; two separate and distinct points.
 - Q. Was that the observation, you wanted to make?
 - A. Yes, sir.
- Q. I will deal with that later, but as I say, they 'felt that in making this decision that it was very, very important, and that it would directly affect production and distribution in the industries of the nation?
- A Yes; no doubt our own Board takes those featured and facts into consideration.
- Q You would agree then . that a 20 per cent increase in Canada or a 25 per cent increase in Canada,

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might have the same effect?

- A. It might, if a lot of other increases had preceded it.
- Q. Even if they had not, would you say that it would not have the same effect?
 - A. Not to the same extent.
- Q But can we not agree, $M_{
 m r}$. Jefferson, that a 25 per cent increase might have the same effect in Canada?
 - A. It might.
- Q. You would not go so far as to say that it would be bound to have?
 - A. No, sir.
- Q. I think you perhaps have cleared that up. There is another point that I wanted cleared up, as a result of cross--examination by Mr. Smith, and that is about some of the exceptions to which he referred, where the exceptions were to the amount of the horizontal increases, but they were still horizontal increases?
 - A. That is correct, yes, sir.
- Q. In other words, perhaps if they were given a 20 per cent increase they would give a 15 per cent increase in the case of some commodities?
 - A. That is right, yes, sir.
- Q. I take it that you really suggest that that is not an exception to a horizontal increase; it is just another horizontal increase of a different amount?
 - A. That is right.

(Page 16469 follows)

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- Q. You regard as exceptions only those cases where they fix a maxima in cents per hundred pounds?
 - A. That is an exception to a horizontal increase.
- Q. And where they have a horizontal increase subject to a maxima?
 - A. Yes, sir.
- What about where they do not have a horizontal increase at all, but just a fixed rate per ton, for example?
- A. Well, the only one that I know of in that class is coal and coke and iron ore, and, I think at that time, sulphur.

THE CHAIRMAN: Coal and coke and what else?

Iron ore, and, I think, sulphur.

MR. COVERT: It seems to me - would you look at page 621, Mr. Jefferson?

- A. Yes, sir.
- Do they not do it there to alumina and bauxite ore and concentrates?
- A. They did on alumina and bauxite ore and concentrates, yes, sir. I was placing that more in the class of iron ore, but it is ore, yes, sir.
 - Q. And on petroleum?
- A. Well, I think they did now that you mention it, they might have done it on crude oil, but not on refined products.
 - Q. And on asphalt?
- A. Well, no. That group there, crude oil, asphalt, petroleum tar, coal tar and tar is 20% on a maximum of 6ϕ ; that is not a flat increase.
- Q. The sentence that follows is the one that governs, is it?

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- A. Yes, sir.
- Q. Now, I think, Mr. Jefferson, that it has been said before this Commission again and again, that in the 21 Percent Case it was left open for anyone who felt they were adversely affected by the 21 Percent increase to come to the Board and show that they were adversely affected. They could come in the later and complain?
 - A. I think the door is always open.
- Q. And it is your feeling, I think, Mr. Jefferson, that that is the only proper way to deal with it?
 - A. I do, yes, sir.
- Q. Now, on such a complaint, apart from unjust discrimination or undue preference, his attack would have to be that the rates were unjust and unreasonable?
- A. Unjust and unreasonable, perhaps, and I am not a lawyer, you know, but I would think the complaint would be lodged more on the ground of affecting the movement of traffic.
 - Q. Of his traffic?
- A. Yes, sir. Take the case I gave Friday of sugar.

 Now, the St. John and Halifax Sugar Refineries might find

 difficulty in marketing their product in competition with -
 - Q. When you say the Halifax one, that one is closed?
- A. Well, take St. John then, in competition with the sugar refineries in Montreal. I am not saying they have, but they might.

THE CHAIRMAN: They might what?

A. Find it difficult in marketing their product in competition with the refinery at Montreal in the Quebec-Ontario area, but that might not necessarily apply to refineries in Alberta or Manitoba or British Columbia.

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MR. COVERT: Well, what I wanted to find out was, what he could do if he comes before the Board. Now, what could he do if he comes in and complains - -

THE CHAIRMAN: You say "That might not apply to the refineries in the west". Having the same market in view - Ontario and Quebec?

- A. No, sir.
- Q. They have different markets?
- A. Yes, sir, quite so. The Manitoba refineries and the Alberta refineries market their sugar in the Prairie Provinces; the British Columbia refinery in Vancouver markets its products in British Columbia and it may also go into the Prairies, but the British Columbia refinery is a cane sugar refinery while the Manitoba and Alberta refineries are beet sugar refineries.

MR. COVERT: Well, I would be interested, I think, Mr. Jefferson, if you could tell us on what ground the sugar manufacturer, say in St. John, could come in and complain to the Board. Would it be sufficient, do you think, if he said: "Well now, I cannot get into the Quebec market"?

- A. I don't know what ground he would come in on.

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 That is something you would have to wait until you saw his
 complaint, but, as I have said repeatedly, I do not know
 what successful ground he could come in on in a case of
 that kind when the price of his commodity has gone up a
 much greater percentage than his freight rates.
- Q. You think then, if his price has gone up by a greater percentage than his freight rates, that he really has no successful chance of coming in and complaining?
 - A. That is right; I do not think he should.

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MR. EVANS: I think perhaps that word "successful" - I do not think you intended that. I do not think that Mr. Jefferson could undertake to say what would be a "successful' ground. I do not think Mr. Covert intended to use that word "successful".

MR. COVERT: I only used it because Mr. Jefferson had used it himself.

MR. EVANS: He said he did not know of any successful ground.

MR. COVERT: Well, what I wanted to find out, and I gathered Mr. Jefferson has said, is that if the price has gone up by a smaller percentage than the freight rates, you do not think (I think you went so far as to say you do not think he could be successful) but you went on to say you did not think he should.

COMMISSIONER INNIS: Would that take into account the position of costs? Suppose his costs have gone up?

- A. It conceivably might, but you take the St. John plant, and the Montreal Sugar Refinery, they are both producing sugar from cane sugar. Now, it does not cost as much for the St. John refiner, to get his cane sugar in as it does the Montreal refiner.
- Q. But I am just wondering whether the reference to price as a yardstick is not too narrow, and that you would also have to take into account the costs which would be real costs, what his profit position is?
- A. I am speaking first from a transportation cost point of view, of course, but I cannot see how it would cost anymore to refine cane sugar in St. John New Brunswick than in Montreal.

THE CHAIRMAN: Are you including transportation

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costs in that or not?

- A. I am including transportation costs.
- Q. You are including them?
- A. Yes, sir.

COMMISSIONER INNIS: I would feel that it would be necessary to make rather an intensive study of the cost situation in each case before you would be able to say?

- A. It might be, but I don't know how the railways could make it.
- Q. It is not a railway problem, but a matter of the condition of the industry in deciding what is happening to costs and prices.
- A. And industry would have to put up his case on his costs if there was to be any costs?

THE CHAIRMAN: You think there should be a set-off between the costs of the St. John man getting his raw materials in at a lower cost than the Montreal man and his higher cost in getting from St. John to the market?

- A. There might be. It may be that the St. John refiner's cost of raw sugar in and cane sugar out to a given market might be more than the Montreal man's costs on raw sugar in, cane sugar out, but if the St. John man could compete with the Montreal man before the rate increase, I say he could compete today with the rate increase.
- Q. On account of the price of the product that has gone up on the market?
 - A. Yes, sir.
- Q. That is not a constant factor, is it? The price of his product might vary?
- A. It might, but it has gone up so much more than the transportation cost that it is certainly not a factor today.

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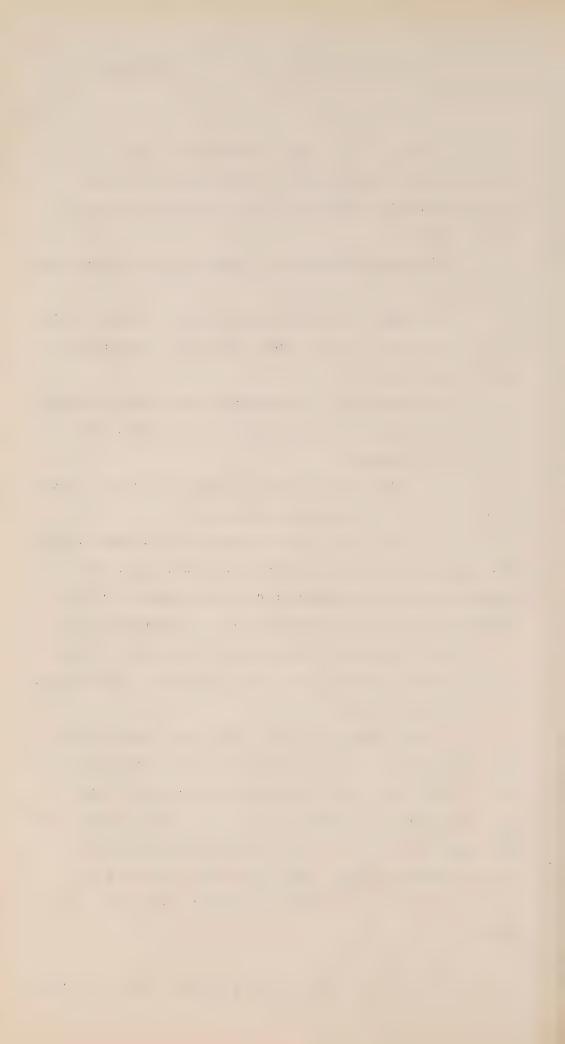
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- Q. Could not the Montreal man, having regard to his lower costs of transportation in the case you mention, undersell the St. John man? Prices are made that way, aren't they?
 - A. The Montreal man might undersell the St. John man?
 - Q. Yes.
- A. He might, but if the St. John man can get in there before he can get in there, no. They have not taken any market away from him.
 - Q. In other words, the Montreal man has an advantage?
- A. Transportation-wise, yes, sir. The St. John man his got to compete.
- Q. It might be something you could not deprive him of because it is a geographic advantage?
- A. Yes, but all I want to exphasize is, that if the St. John man can market in Toronto, we will say, in competition with the Montreal refiner before the rate increase, he can market today, and he is marketing today.
- Q. So long as the prices remain the same, so long as the Montreal man does not start to offer a lower price?
 - A. That is right.

MR. COVERT: Now, Mr. Jefferson, just to close this matter of horizontal increases, I just want to say this. First, you got a 21% horizontal increase. Now, this 8% increase was added on that, and let us assume for the moment that the railways are successful in having that increased to 20%. Now, 20% on the 121 would be 24, which would make a total horizontal increase of about 45%?

- A. Yes, sir.
- Q. And I take it then, Mr. Jefferson, that you would



say that a 45% horizontal increase would not, in your opinion, affect industries that are subject to long-haul in Canada?

- A. Yes, sir.
- Q. That is your opinion?
- A. Yes, sir.
- Q. And you say also, that despite what the Duncan Commission said, and despite the views that the Interstate Commerce Commission have expressed, that as far as Canada is concerned the horizontal increase has certainly not reached the stage yet and will not, in your opinion, with 45%, reach the stage where it is a matter which either the railways or the Board of Transport Commissioners should make subject to exceptions by way of maxima.
- A. I would say yes, and if industry finds itself in any different position than I have said, they always have the right to come to the railway or go to the Board and ask for a modification and give their reasons why they think a modification should be made.
- Q. And you think that is the best way to deal with the matter?
 - A. T do.
 - Q. And that it should be left that way?
 - A. Yes, sir.
- Q. Now then, Mr. Jefferson, the next subject I want to deal with is the question of industrial location. Now, in Appendix B on page 62 of Alberta's Brief, on Industrial Location, there was a copy of a letter from Mr. Evans, General Counsel of the Canadian Pacific Railway Company dealing with the proposed agreed charge between the Canadian National and the Canadian Pacific

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and the McColl-Frontenac Oil Company, on the movement of petroleum products from Fort William to destinations in the Province of Saskatchewan, and in that letter - -

- A. I have not the Alberta Brief here.
- Q. Well, I think perhaps I could summarize this for you. I am suggesting that listed as one of the objects of the proposed agreed charge that it is -

"...to avoid the construction of a refinery by the McColl-Frontenac Oil Company at a point in the Prairie Provinces which would result in the railways receiving only low revenues on inbound crude oil and the probability of losing the outbound traffic to truck transportation."

Now, regardless of whether or not this was one of the considerations for the granting of the agreed charge, what I suggest to you is, that that was an indication at least that the railways were of the opinion that it was a proper ground to advance for securing an agreed charge?

Well, I would not agree with that, no. I say you have got to look at things as they were at the time the application was made. Now, when the application for that agreed charge was made, they had not discovered the oilfields in Alberta. The only oilfield of importance in Alberta at that time was Turner Valley, and the production of crude oil from the Turner Valley field was receding, and it required bringing practically all the crude oil for the refineries in Western Canada in Manitoba, Saskatchewan and Alberta from the United States. Now, if the Alberta field had been discovered then, as it has developed today, probably the McColl-Frontenac



Oil Company or the Canadian Pacific and Canadian National Railways never would have made an application for the agreed charge; there would have been no necessity for it.

- Q. Well, I do not know whether that answers my question. I merely put it to you this way, that apparently the railways thought that there was a possibiltiy of erecting a refinery in the Prairie Provinces?
 - A. For the refining of the United States crude.
- Q. O.K., but regardless of what it was for, there was a possibility of a refinery being erected there?
 - A. Yes.
- Q. And the railways apparently took the position that one of the reasons at least which they advanced for obtaining this agreed charge was to avoid the construction of a refinery there?
- A. That was not for the refining of Alberta's natural resources. That is what Mr. Frawley wants, processing, as I understand it, Alberta's raw materials. This was not done to exclude the processing of Alberta's raw materials; it is a different situation entirely.
- Q. I understand that, Mr. Jefferson. I am not discussing what Mr. Frawley wants right at the moment. I just want to point out that the railways were suggesting that one of the reasons they advanced for this agreed charge was to avoid the construction of a refinery by the McColl-Frontenac Oil Company at a point in the Prairie Provinces which would result in the railways receiving only low revenues on inbound crude and the probability of losing the outbound traffic to truck transportation.

The point I am coming to is, that apparently the railways considered that freight rates, that is,



apparently the difference between an agreed charge and, if they did not get the agreed charge, what the freight rates would be or whether the trucks would take it, was of sufficient importance to determine whether or not an oil refinery was or was not to be located in the Prairie Provinces?

A. In the light of conditions which existed at that time it was good business. Today, it might be an entirely different thing .

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- Q Would you agree with this, Mr. Jefferson, or would you not agree with it, that apparently from this suggestion---
 - A. Whose suggestion? Mr. Frawley's suggestion?
- Q. No; the suggestion contained in this letter; I have forgotten Mr. Frawley for the moment. Apparently from the suggestion contained in this letter a difference in freight rates could possibly determine the location of a plant?
 - A. Yes.
 - Q. Of that size?
- A. And in no way harmful to any province in Western Conada.

THE CHAIRMAN: What's that?

MR COVERT: He says in no way harmful---

THE WITNESS: In no way harmful to any province in Western Canada.

THE CHAIRMAN: Q. In no way comparable?

- A. Harmful.
- Q. Harmful. It was not a question, then, whether or not you should have the longer haul or that there should be a refinery built which would give you only a short haul or give the traffic to trucks?
 - A. Here was the situation ---
 - Q. Isn't that the case?
- A. Yes. Here was the situation: United States crude was coming into Canada; railways were getting a short haul and low revenue on it; the United States crude was processed; the railways may or may not have received the haul on the gasoline, we will say. Now, the railways considered it was in their interest to get a haul, a long haul, on the refined product from Fort William to Saskatchewan to compete with the product of United States

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crude oil. This was all before the Alberta field had developed.

MR COVERT: Q. Now, in that connection, Mr. Jefferson, this letter was written on May 15, 1947; is that correct?

A. Yes. Don't forget this, now: The application for the agreed charge was made, if I remember correctly, in the spring of 1946. When was it made? Have you the date of the application?

MR O'DONNELL: It was submitted to the Board on March 26, 1947. The application may have been made earlier than that; I don't know.

THE WITNESS: I have forgotten the date of the application.

MR COVERT: Q. Now, Mr. Jefferson, do you recall that perhaps this was a suggestion of the McColl Frontenac Oil Company themselves, that they did not want to put capital into a new refinery there? Do you know that?

- A. That they did not want to put the capital into a new refinery?
 - Q. Refinery in the prairies?
- A. Well, I think they would have if we had not made the agreed charge.
- Q. You say the location of the refinery or the non-location of it on the prairies was an idea of the railways rather than McColl Frontenac themselves?
 - A. Oh, no; no, sir.
 - Q. Well, do you know whose idea it was?
 - A. Who initiated the agreed charge?
- Q. No; who initiated this suggestion that to avoid the construction of a refinery of the McColl Frontenac Oil Company at a point in the prairie provinces---
 - A. I would say it was the McColl Frontenac themselves.

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- Q. And they suggested to the railways that you enter into an agreed charge?
 - A. Yes, sir.
 - Q. In order to---
- A. Please bear this in mind, that before the agreed charge was applied for the McColl Frontenac were obtaining their refined products from other oil companies, but other oil companies could not supply them any longer. When the other oil companies were processing crude oil for the McColl Frontenac the railways got the haul on the crude oil in and the railways got the haul on the refined product out, because the McColl Frontenac were not trucking. Now then, when the oil companies said they could not supply the McColl Frontenac with gasoline and other refined products, the McColl Frontenac could do one of three things: They could bring in refined products from the United States, they could build a refinery in we will say Saskatchewan if you like and bring in the crude oil from the States and ship the refined products from the refinery, or they could bring the refined products from the east by water to the head of the lakes and rail to the west. Now, in consideration of all those things, and in the light of the conditions which existed at that time, the railways considered it was good business to make an agreed charge and obtain the long haul on the traffic on the refined products from Fort William to Saskatchewan.
- Q. Now, you say the railways considered it was good business?
 - A. Yes, sir.
- Q. First, I suppose, you mean by that, Mr. Jefferson, good business for the railways?
 - A. Certainly.
 - Q. Yes. And so their suggestion as to what might be

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good business for the railways might deprive the Province of Saskatchewan of having an opportunity at least to have a refinery built there?

- A. The refinery might have been built, but it would not have been built for the purpose of refining Canadian crude.
 - Q. I am not talking about that; I say---
- A. No, but I think you have got to couple the two together.
 - Q. I will couple that with it later, Mr. Jefferson.
 - A. All right.
 - Q. But you say there was that possibility?
 - A. Certainly.
- Q. And the railways in protecting their own business may have deprived Saskatchewan of a refinery?
 - A. Maybe.
- Now, what you say is that it was good business for Saskatchewan as well as it was for the railways?
- A. I did not say it was good business for Saskatchewan; I said it was good business for the railways and good business for the McColl Frontenac.
 - Q. For the McColl Frontenac?
 - A. Yes, sir.
- Then what I wanted to suggest to you is, isn't it apparent from that that the railways at least have it within their power to decide industrial location?
- A. Maybe to that extent. I do not know just what you mean.

MR O'DONNELL: Subject to the Board's approval in any case of that kind; and in connection with this particular case it might not be inappropriate just to draw the attention of the Commission to these remarks in the judgment; this subject was considered in the judgment.

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"Some considerable criticism was levelled at
the Applicants in respect of the prevention of the
operation of a refinery in Western Caaada. In my
opinion the criticism is unfounded inasmuch as the
Agreement provides that it may be cancelled by
either party on three months' notice. If it is the
desire of the Shipper to erect a refinery to supply
its Saskatchewan market, there is no obstacle created
by the Agreement. What the Applicants' object does
mean is that the Shipper cannot obtain the benefits
without observing the restrictions entailed."

And then it said prior to that what the object of the agreed charge was; but it did not prevent the erection of a refinery if McColl Frontenac saw fit so to do.

THE CHAIRMAN: But the granting of the agreed charge made it much less likely that the McColl Frontenac Company would.

MR O'DONNELL: So long as it suited McColl, yes, and so long as the market for oil---

THE CHAIRMAN: The point is, ought the Commission in such a case to say, "No, we refuse you the right or the privilege of this agreed charge in order to compel you to erect a refinery in a Canadian province"?

MR EVANS: Well, sir, if they did that, then every long haul rate that got a maximum increase would be preventing the industry coming closer to its market. It would operate the same way.

THE CHAIRMAN: That seems to be the problem.

MR COVERT: Yes. My lord, I prefaced this whole statement by saying, regardless of whether or not this was one of the considerations for granting the agreed charge. I wanted to make it very clear. All I am trying to ascertain now from the witness, Mr. Chairman, is this---

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THE CHAIRMAN: I think it is very important.

MR COVERT: The matter of a freight rate may have an effect on industrial location, and I wanted to find out whether Mr. Jefferson's views were that the railways had in their hands as a result of that perhaps a large power to decide whether or not there would be industrial location in a particular province or

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locality.

THE CHAIRMAN: Oh, yes. The case I do not think is hard to suppose. Any manufacturer might sometimes be in the position where he can say to the railway, "Now, either you give us a low freight rate or we will build another factory someplace else."

MR EVANS: It is a factor in every long-haul rate.

THE CHAIRMAN: Yes. The question is, then, has
the Board power, or if it has not power ought it to have
power, to step in there and say, "Now, we will refuse this
low rate in order to compel the erection of a new industry
in a Canadian province"?

MR COVERT: Or perhaps, Mr. Chairman, to say, in order that there will be, as Mr. Frawley says, neutrality, that it would mitigate against.

THE CHAIRMAN: Yes. Well, that is it. Mr. Frawley says, " Give us such rates that it will have no effect on the location of an industry; they will be a neutral factor, whether the industry should be here or there."

MR FRAWLEY: What we say rather is, give us freight rates which will not discourage the location of industry.

THE CHAIRMAN: Well, you use the word "neutral"; if it is neutral it cannot discourage.

THE WITNESS: But I do not think---

THE CHAIRMAN: Unless it is in the level of

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neutrality.

THE WITNESS: But I do not think we should confuse, as I follow this question of industrial location, the processing of a raw material from the United States with a raw material produced in, I will put it, a home province, or in Canada.

THE CHAIRMAN: Well, you see, the only thing the Board appears to have said about it is, "Oh, well, this is only a temporary agreement, and the company has the right to cancel it on three months' notice. If they want to they can do that and erect a plant in Saskatchewan or Alberta." That is the way the Board seems to have---

MR O'DONNELL: As a matter of fact, they did cancel it shortly after, when the situation changed.

THE CHAIRMAN: And did they erect a plant?

MR O'DONNELL: I do not know about that. They have one in Edmonton; they were erecting one in Edmonton.

THE WITNESS: What I was going to say is just what Mr. O'Donnell said, that after the Alberta field was developed they applied for the cancellation of the agreed charge.

THE CHAIRMAN: Yes, but during that time the railways on the one hand and the company on the other had it within their power to cancel this agreement, and that would have apparently resulted in the erection of a plant.

THE WITNESS: Yes, sir.

THE CHAIRMAN: Someplace.

MR O'DONNELL: Not necessarily. There were other alternatives as well open to the McColl Company to get refined products into the Saskatchewan market. It did not necessarily mean that the refinery---

THE CHAIRMAN: That may be. I am just trying to interpret what the Board said there. The Board seems to

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say that the company may erect a plant later on if it wants to by cancellation of this agreement.

MR MACPHERSON: There was no plant erected in Saskatchewan, anyway, Mr. Chairman.

MR COVERT: My lord, I am a bit sorry that this has got on to the facts of a particular case.

THE CHAIRMAN: No; I am very glad.

MR COVERT: I am trying to work out the truth.

THE CHAIRMAN: Because it gives us an idea of what the situation was then and what it might be -the question of home industry, to what extent boards should endeavour to build it up, to what extent railways and industrialists should be influenced by the desire to build it up in Canada, and so on, what the powers of the Board should be in such a case -- all these things come out of this kind of question.

MR COVERT: Yes. I think one of the important things---

THE CHAIRMAN: We are not deciding anything at all one way or the other just now.

MR COVERT: One of the important things that comes up -- and I want to put it to Mr. Jefferson -- is that it would seem to leave a great power in the hands of the rail-way, whose views may be, I suggest, that of seeking revenue and business for its line, and that that may conflict with the interests of a particular locality or the economy of that locality, and I suggest, as I say, that that is a great power, and I wanted to know Mr. Jefferson's views on that.

THE WITNESS: Well, I do not think, Mr. Covert, that the example that you have given is a fair one or a relative one. If you give me one where we made an agreed charge affect:ing a Canadian natural resource I can discuss it with you, ;but I cannot discuss it with you when the

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situation attending this agreed charge is entirely different, and one which was justified and one which was changed after the Alberta field developed.

Q. Excuse me one minute, Mr. Jefferson. I am not interested in the facts of this particular case. I think I have made that clear.

MR EVANS: You have not made it clear to me.
You put the facts of a particular case---

THE CHAIRMAN: Pardon me. We had better let Mr. Covert finish first what he is going to say. I cannot anticipate; you are, Mr. Evans.

MR EVANS: Well, his attitude is not what I think it should be, and I am suggesting that he himself brought up this particular case. He asked Mr. Jefferson about a particular case, and now he does not want to know the facts of that case.

THE CHAIRMAN: No; he just said he is putting aside this particular case for the moment. You had better go on, Mr. Covert. I do not know what you were going to say.

MR COVERT: Q. I said for the moment, Mr. Jefferson -- and I thought I had made it clear -- what I am interested in is a matter of principle. The principle that I suggested here was contained in a letter about this particular case, but I say I am not interested in the particular facts, and the reason I said that is that I do not want to go into the facts of that case; I just want to get the principle. If you will let me, that is the way I want to proceed. Now, I suggested that there was a possibility that the railways had a great power in their hands to affect industrial location, and I thought that you had agreed with that, that they have that power. Now, I am not suggesting for a moment that they exercise it

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wrongly, but I say I thought you had agreed that they had that power; is that correct?

- A. Well, if we are going to deal with a hypothetical case I will put it to you this way, that the railways would take all the facts into consideration before they would agree with anyone to make an agreed charge.
- Q. Do you think that is an answer to my question, Mr. Jefferson?
- A. I do, because I say without a factual case or some illustration, the point is that the railways might go out and make an agreement of that kind to affect Conadian industry. Now, the railways do not do that sort of thing; they only do it where they think they are justified in doing it. Now, I say that if the Alberta oil field had been developed before this agreed charge was made, it probably would not have been asked for, but if it had been asked for probably the railways would not have done it.

THE CHAIRMAN: Pardon me a moment. Mr. Evans, if you wish to go more fully into the facts surrounding this case, you know you are at liberty to do so.

MR EVANS: Yes, but with respect, sir, I do not want to quarrel with my friend Mr. Covert, but he begins to hammer the desk to Mr. Jefferson, and I do not think that is a fair way to approach it. He puts to him the question that the railways have power. There is not the slightest suggestion that the railways have power; they cannot exercise power; they have got to have an agreement with industry, and they have got to have the approval of the Board.

THE CHAIRMAN: The power means power to make an agreement, and to go to the Board for its ratification. That is the power. The power to lower rates is one that may be wielded in very many ways.

MR EVANS: Quite; but the way the question was put

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to the witness, the railway has power to determine the location of industry, as though it was just the will of the railway to determine the location of industry. Now, that is not the fact at all, and he is putting that to the witness as though the railways have got the whole country at their fingertips.

(Page 16490 follows)

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MR. COVERT: I don't think I suggested that at all, my lord, and I don't think Mr. Jefferson understood it that way. As a matter of fact, I thought that Mr. Jefferson and I had come to an agreement at one time during the examination, that the railways would have the power by fixing rates to effect industrial locations.

- You say, Mr. Jefferson, that you cannot agree on that now?
 - A. I can't agree on it the way you put it tome, no.
 - Perhaps we better try again.

THE CHAIRMAN: Before going further, it would stand to reason that an agreed freight rate might in some cases be the cause of a shipper not constructing a plant nearer his market. Would not that go without saying?

MR. O'DONNELL: That does, my lord. That is the preliminary step, that the whole situation must be put before the Board and approved by the Board.

THE CHAIRMAN: Certainly; we are talking of a particular act now, which provides all that procedure.

MR. O'DONNELL: The Transport Act . . .

THE CHAIRMAN: When you go through that procedure, a favourable freight rate stands to reason might prevent a company from building another plant. I do not see any reason to dispute that.

MR. EVANS: As long as it is not put on the basis it is a power that the railways possess, a power that in their own hands.

THE CHAIRMAN: It is not in their own hands; you have to have the co-operation of the shipper and the approval of the Board.

MR. EVANS: Exactly.

THE CHAIRMAN: We know that.

MR. COVER: Q. Mr. Jefferson, can we go on

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from there? When it comes to an agreement between the shipper and the railway -- I will deal with the approval of the Board later -- but when it comes to an agreement with the railway and shipper, the interests of the railway and the particular shipper, I suggest, may be in conflict with the economy of a particular location?

- A. How is that?
- Q. The railway, for instance, may want long haul traffic, which may suggest to the railway that it would be better that the plant be located at a particular place?
- A. But I don't want the impression left that the railways go out and make agreed charges, that are unjust to other industries or unjust to Canada. We don't do it.
- Q. Can you tell me then, Mr. Jefferson, is it fair to assume from that answer that the interests of the railway must always be the same as the interests of, we will say, Alberta?
- A. The interests of everyone have got to be taken into consideration.
 - Q. And who weighs those interests?
- A. The railways certainly are going to weigh them. If they get an application for someone for an agreed charge, you are certainly going to weigh it before you enter into an agreed charge of that kind.
- Q. The railways having weighed them and having entered into an agreement, then go before the Board of Transport Commissioners for approval?
 - A. Yes, sir; but I think you have got to have --
- Q. Would you tell me now, Mr. Jefferson, when they go before the Board of Transport Commissioners for approval, does the Board of Transport Commissioners take into account the question of industrial location? Supposing the railways and the shipper are in agreement; they show

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the Board of Transport Commissioners that it is a proper rate, just and reasonable, and it makes money for the railways?

- A. I am going to say this, that the railway does not go with a shipper to the Board unless they consider they have every good reason for applying for the agreed charge, and that it would be, of course, in the railway's interest and one which would not be injurious to other industries and to the Dominion of Canada. Now if there is not sufficient confidence in the railways that they approve these suggestions in that manner, I don't know where they would land.
- Q. Can I put it this way, Mr. Jefferson, that there must be confidence in the railways?
 - A. Certainly there must be.

COMMISSIONER INNIS: Q. You don't think there is any chance of the railways confusing their position with that of the Deity?

MR. O'DONNELL: Not as long as the Board of Transport Commissioners is there.

THE CHAIRMAN: A point which might be of interest is to what extent might the Board say we refuse this agreed charge because we think it is better to maintain a higher charge, and therefore force the company to erect a new plant nearer the market.

In the case which Mr. O'Donnell read to us, the Board gave that some consideration, and then left the final result to the company itself; they said if the company wishes to change its mind it can do so any time by giving three months' notice. That is correct, is it not?

MR. O'DONNELL: Yes, my lord. There were three alternatives or different ways in which the McColl company

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the could still stay in/Saskatewan market; the question of a refinery was only one of three. It doesn't follow that even if an agreed charge had been granted they would have erected a refinery. The Board had to go into the question under the Act, Section 36(b); they have to look into it.

THE CHAIRMAN: Some people submit to us that the Board should have wider power than it has now, in the way of handling power over industrial locations, and it should exercise that power in a given fashion. This case gives us an idea of what the Board did on that occasion, and the language used.

COMMISSIONER ANGUS: Q. Mr. Jefferson, is this the position, that if the railways in such matters are faced with a sort of conflict between interests and duty, that duty always wins, and that as an additional safeguard the Board is there?

A. The Board is there, and if we go to the Board . . . that is, if the railways go to the Board with an unsound application, then industry or anyone else has the right to go to the Board and object before the application is approved.

MR. COVERT: Q. Mr. Jefferson, I would like to read to you from the report of the Duncan Commission, at the bottom of page 24 and the top of page 25.

- A. Yes, sir.
- Q. They had been citing some extracts from the Board's judgment, and one of the citations was:

"The Board under the Railway Act has no profit and loss responsibility --"

- A. Where is that?
- Q. It is just about the middle of the page, in the fine print.

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- A. Is that a quotation?
- Q. Yes.
- A. Yes, sir.
- Q. "The Board under the Railway Act has no profit and loss responsibility, and its intervention in the matter of rates must, as has been indicated, be concerned with matters falling within the categories of reasonableness and unjust discrimination, and not with a policy of the development of industries through rate adjustments."

They go on to say:

"The Board has no power to regulate tolls, for the purpose of equalizing cost of production, or geographical, or climatic, or economic conditions."

Then down to the last paragraph on that page:

"We are far from suggesting that there should be arbitrary interference on the part of the Railway Commission with the business judgment of the railway companies, or that there should be any confusion between trade development that can reasonably be expected from a railway rate structure, and trade development that must be a matter for public or government responsibility quite apart from rate structure. Much of the evidence we heard in the Maritimes left the impression on our minds that witnesses thought the railways should be operated to the advantage of the trader irrespective of the financial results to the railway. In other words, what a railway administration might concede, in the exercise of its judgment on what was good business or might

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ultimately be good business for itself, seemed to us to be demanded as a matter of right by the trader so that his own business might be profitably developed whether the operations of the railway were remunerative or not. Even if there were no privately owned railway company, the business interests of which must be fairly considered and safeguarded, we cannot conceive of a national system being efficiently administered on such a principle as that."

I think you would be in entire agreement with that whole quotation so far, would you not?

- A. I haven't so far seen anything radically wrong, though I haven't studied it.
 - Q. I would like you to look at that, if you would.
 - A. What are you going to ask me from it?
- Q. I say there is nothing there that you would quarrel with, is there?
 - A. I don't think so, so far.
 - Q. Then it goes on:

"On the other hand, from a public point of view, in return for the statutory and other public privileges which railway companies enjoy, it may not be unreasonable that there should be a responsible review of their policy (as interpreted in their rate structure) in its relation to the natural basic products of the country, and the development of these products and associated enterprises."

Would you think that perhaps there was something in that?

- A. Who is going to make the review?
- Q. Perhaps this Commission should suggest a review in a recommendation?

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A. As I understand it, from whatyou are just reading now, the report thinks that in view of the statutory and other public privileges -- I guess that is on the Maritime Freight Rates Act; I guess that is smmething else.

"On the other hand, from a public point of view in return for statutory and other public privileges which railway companies enjoy, it may not be unreasonable that there should be a responsible review of their policy (as interpreted in their rate structure) in its relation to the natural basic products of the country, and the development of these products and associated enterprises."

I suppose the railways are doing that every day, considering some question.

- Q. I just want to find out your view on this, Mr. Jefferson. You feel the railway should be the sole arbitrator?
- A. I have said several times that I think freight rates should be made by the railways, subject to a complaint to the Board and the decision of the Board as to the justification of the railway's actions.
- Q. And that in the final analysis the Board's power should be limited first as to any unjust discrimination or undue preference, and second that rates are just and reasonable?
- A. I don't think -- I don't know whether I can answer your question or not. I don't think we can expect the Board of Transport Commissioners to go out and initiate freight rates; I don't think they could be expected to do it.
 - Q. Mr. Jefferson, do you recall when you were

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discussing the transcontinental rates on cement, you suggested that a transcontinental rate had been put in that enabled competition of Canadian producers with cement from England. Is that correct?

- A. Yes. That was not ordinary cement, but some special kind of cement. That cement we were discussing at that time was produced at Paris, Ontario, and it was also produced in England. Now the Paris, Ontario, producers of that cement and the railways had a competitive situation to meet to Vancouver in competition with the English cement.
- Q. I just want to ask you a question from this point of view: again I suggest it gives an indication that freight rates possibly do have a tremendous effect on what happens, whether or not we get cement from Canada or cement from England. Do they not?
- A. Marketing -- or are we discussing industrial location now?
- Q. Do you need to have an answer to that before you can answer my question?
- A. All I am saying now is that when we make a rate on cement from Paris, Ontario, to Vancouver to compete with English cement, that all we are doing is that the railway and shipper are jointly developing a traffic for Canada and for Canadian railways; but that is only a very small part of the producer's production.
 - Q. Have you finished with that thought?
 - A. Yes, sir.
- Q. And you may also be assisting Canada's industry in the process?
 - A. Certainly.
- Q. But I return to this thought: you perhaps do not even decide whether or not English cement comes in or

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Canadian cement is used. . .

- A. Naturally I think that is a matter of good business.
- Q. In another case I think you mentioned -- I do not find the place just now, but I think you will recall it, Mr. Jefferson -- you did suggest that certain rates encouraged Canadian industry really in competition with American industry?
- A. It encouraged Canadian industry in competition with American industry?
 - Q. Yes.
- A. I did answer that, yes, but I would like to know the case. It all depends, whether you are talking about Canadian traffic, international traffic, or what?

THE CHAIRMAN: Q. Did you not give us the case of salt?

A. Yes, that is the one Mr. Buckingham has just handed to me. If we are talking of salt going into the Vancouver market from eastern Canada, in competition with salt from California -- is that what you have in mind?

MR. COVERT: Q. No, I do not think that is what I had in mind at all, Mr. Jefferson. It arose in connection with the examination by Mr. Frawley, and it was out of part of your page 105 of Part I, where you say:

"There is no valid reason why the same distribution basis should be granted on merchandise entering Canada from the United States. In many cases such merchandise is in direct competition with similar goods produced at points in Canada."

And there was considerable examination on that point.

I understood you to say -- I think you practically

considered it one of the duties of the railway to further

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the interests of industry in Canada. I think it was at page --

THE CHAIRMAN: At the bottom of page 105 it says:

"In many cases such merchandise is in direct
competition with similar goods produced at points
in Canada."

That is United States merchandise.

MR. COVERT: Q. I don't think it is important that I find the particular place in the evidence, Mr. Jefferson. I think you perhaps recall that.

- A. I remember a discussion about page 105, yes, sir.
- Q. And you were of the view that it was perfectly all right for the railways to fix rates that would encourage Canadian industry in competition with American industry?
 - A. In general terms I say yes.
- Q. I suggest that these things more or less indicate, Mr. Jefferson, that the railways by fixing freight rates can have a great effect on industrial locations in Canada?
- A. I will agree to that, to the extent that the railways help industry to reach faraway markets.
- Q. I wouldn't quarrel with that for a moment, Mr. Jefferson. I don't know why there should be any quarrel between us.
 - A. No.
- Q. I want to go on from there and ask you this: it would seem to me that it could at least be possible, and perhaps probable, that there might be a conflict in the railways' interests and the interests of the economy of some part of Canada. I would just like to ask you to answer that question yes or no. Then the next question I propose to ask you -- and I will tell you in advance what I propose to ask -- is that if there is the power

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then there is the possibility . . .?

- A. I would answer you this way, that I don't think anything the railways would do to help industry meet far-away markets would be prejudicial to the economy of Canada; in fact, I think it would be quite the reverse; it would be beneficial to the economy of Canada.
- Q. Then, Mr. Jefferson, you do recognize, however, that there may be a conflict of interests, or don't you?
- A. There may be a conflict of interests between the shipper and railway. There always will be some conflict of interests between shipper and railway.
- Q. I am talking about conflict of interests, Mr. Jefferson, between the railways and the economy of some region or locality?
 - A. I won't say no.
- Q. You would say there couldn't be any conflict.

 Then if there could be no conflict there would be no need of anyone having to supervise that possibility?
- A. I don't think anyone is going -- that anyone desires legislation that is going to be in favour of intra-provincial traffic instead of inter-provincial traffic. We don't want any closed shops.

THE CHAIRMAN: We will take recess.

---Recess.

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MR. COVERT: Now, Mr. Jefferson, I want to leave that, and go on to the question of interline rates?

- A. Yes, sir.
- Q. Now, according to page 2 of the Appendix to your Brief, Part I, where you give the summary of mileage operated by the Canadian Pacific Railway, I think you show: - "Lines operated under lease or contract 9203" -
 - A. Where is that oh, yes, sir.
 - Q. And your own lines are 13,682 miles?
 - A. Yes, sir.
- Q. Now, I want to ask you first, if it is the policy of the Canadian Pacific generally to have single line rates where you have connection between one of your own lines and one of your controlled or leased lines?
- A. Well, I can best answer that by saying, that any part of the Canadian Pacific Railway that is composed of leased or contract lines is all treated as one railway.
 - Q. It is all treated as one railway?
- A. Yes, but as Mr. Evans explained the other day, there might be a difference with respect to the Quebec Central and Dominion Atlantic Railways.
- Q. Would those be the only two the Quebec Central and the Dominion Atlantic?

THE CHAIRMAN: Pardon me.

MR. COVERT: Would those, the Dominion Atlantic and the Quebec Central, be the only two where you do not have single line rates?

A. The only ones that I can think of at the moment. I do not know whether we have any two line rates with the E. & N. Railway on Vancouver Island or not. I don't

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- Q. Then, as I say, apart from those t_{WO} , the general policy is, that you treat the leased lines or the lines operated under contract as part of the same line?
- A. I would say it is true of everything that is operated perhaps as the Canadian Pacific Railway on the map; it is all one line rates.
- Q. Now, in the case of the Quebec Central, there is some specific reason why you treat that differently?
- A. Well, the Quebec Central is a separately-operated property and I won't say all rates, but some of the rates are on a two-line basis.
- Q. Well now, is there some special reason why they would be on a two-line rate?
- A. Well, the reason is, they cannot afford to operate on single-line rates.
- Q. And is that due to lack of volume of traffic?

 Is that one of the reasons?
 - A. That would be one reason, yes.
 - Q. Are there other reasons, Mr. Jefferson?
- A. There may be operating reasons. I would think it would be mainly volume of traffic, that they cannot earn enough money, and I do not think they do earn enough today, for that matter.
- Q. So it is really a question of revenue requirements then that leads you to have the two line rates?
 - A. Of the leased lines, yes, sir.
- Q. And in the case of the other leased lines, or lines operated under contract, that situation does not exist as it does on the Quebec Central and the Dominion Atlantic?

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- A. Right.
- Now, would it be fair to say then, Mr. Jefferson, that if it were not for the worry that you have with respect to revenue, that you would give single line rates on the Quebec Central and the Dominion Atlantic?
- A. We might, but don't overlook the fact, that any commodities produced on the Quebec Central, to market them I do not care where, we make rates that enables it to market its products without regard to the two line basis.
- Q. Now, that is all I have to ask on that, Mr. Jefferson. Now, I want to discuss with you the question of international rates?
 - A. Yes, sir.
- Now, my understanding of these international rates is, that the main ground urged by the Canadian Pacific for similar increases in Canada and in the United States is, that there is market competition involved?
 - A. That is one, yes.
 - Q. What are the others ?
- A. Well, I gave them all to you in my direct evidence. I have forgotten whether it was in direct evidence or cross-examination; I think it was in direct evidence. I explained the international rates very fully.
- Q. Would you mind just refreshing my memory just a bit then, Mr. Jefferson?
- A. Well, there was not only the market situation, but the continuity of through rates, the equality of rates via all the routes, and I think those were the main three reasons.
 - Q. Those are the main three reasons?
 - A. Yes.

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- Q. Then, I think you referred to the Board of Transport Commissioner's Order 72905 of August 12, 1949, which contained a recital that the:-
 - "...Board deemed it expedient in the public interest that the continuity of joint through rates from points in the United States to points in Canada and vice versa, and the maintenance of the parity of broad relationships should be preserved"?
 - A. Yes, sir.
- Q. Now, that recital does in effect, perhaps, point out the other two which you have just mentioned?
 - A. It points out?
 - Q. Yes.
 - A. Yes.
- Q. And is that a similar policy to that in effect in the United States? Do the Interstate Commerce Commission find that necessity of continuity of joint through rates and the maintenance of parity of so-called broad relationships should be preserved?
- A. Well, if I follow your question, I think the Interstate Commerce Commission - I will put it this way; the views of the railways in Canada and the United States, the views of the Interstate Commerce Commission and the Board of Transport Commissioners are identical. If they were not, the railways themselves in the United States would not be applying to our Board of Transport Commissioners for these increases in international rates at the same time as in the United States, and for the continuity of through rates and the preservation of rate parities and so on and so forth.

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- Q. Mr. Jefferson, are there cases of these international rates in which this question of market competition is not involved?
 - A. I don't know of any.
 - Q. You do not know of any?
- No, it is involved in everything, for that matter, to one degree or another.
- Q. Now, I just wanted to make sure that I understood this business of market competition and joint international rates. Now, I want to see if I do, and I want you to correct me if I am wrong. What you say is, that if that part of the joint through rate on the Canadian side of the border were not given the same increase as the part on the American side of the border, that the American shipper would complain because it would give the Canadian shipper an advantage to a market?
 - A. That is right.
 - Q. And that is the market competition?
 - A. That is right.
- And, therefore, does it follow, that on all of these international rates that they would only be granted, may only ask for the same increase in Canada if there is market competition involved in the United States?
 - A. That we only do?
 - Q. . Yes.
- A. We ask for it on everything. I do not care whether there is market competition, whether the market competition is direct or indirect. If a rate from Canada to the United States is made in relation to the rates within the States and the rates within the States go up, the international rate must go up; otherwise, the

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international rate would be lower, distance considered, than the rate within the United States.

- Q. Perhaps I do not understand it, Mr. Jefferson, but if it goes up on everything, regardless of whether or not there is market competition either direct or indirect, then it would seem to me, that there must be cases where the rate goes up on these international rates even if there is not market competition?
- A. That may be, but I do not know how you could differentiate.
- Q. Then, am I correct, that regardless of whether or not there is market competition on particular goods crossing the border, when you make an application for increases in these international rates, that it applies to everything?
 - A. Yes, sir.
- Q. And again, I say, whether or not there is market competition?
- A. That is right, and as I explained very fully one day here in my evidence, (we talked on the subject for over an hour) I explained very fully why it was necessary.
- Q. Then, do I understand, that it is in those cases, perhaps, where there is no market competition, that the reasons are the necessity of the continuity of joint through rates, and the even flow of traffic? Is that it?
- A. I do not know how you would really determine on any commodity that there was not some market competition, but, apart from that, you have got to have the continuity of through rates, you have got to have equality of rates

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by all routes which you cannot have if you try to divide the rate up and increase one factor and not another. I explained all that.

- Q. Now, can you tell me (because I don't know) can you tell me why there must be this continuity to which you refer?
- A. Well, if you do not have the continuity of through rates, and they are cancelled, you would be worse off than you are today. The rates would be away higher than they are today.
- Q. Then, you say, if you do not have this increase regardless of whether or not there is market competition, that the American Railways would just say: "Well, if you do not increase the rates the same in Canada, we will cancel"?
 - A. Yes, sir.
- Q. That is, regardless of whether or not there is market competition?
 - A. Yes, sir.
- Q. Now, do you think perhaps you can tell me this, Mr. Jefferson? Is it a fact, that when the railways apply for an increase in the international rates before the Interstate Commerce Commission, that they must --
 - A. Would you repeat that, please?
- Q. When the railways apply, that is, the American Railways, before the Interstate Commerce Commission, for an increase in the international rates, they do that on the basis of revenue requirements?
 - A. Yes, sir.
- Q. Well then, does that leave the Canadian Railways in this position, that if the rates in Canada must be

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increased - -

- If the international rates.
- Q. That is right, the international rates in Canada must be increased on the same basis, the same percentage, as those in the United States?
 - A. Yes, sir.
- Q. Then, the Canadian Railways in effect, come before the Board of Transport Commissioners and get that increase without showing financial need?
 - A. That is right.
- Q. Now, do you think, that if the situation were reversed, that that would be possible before the Interstate Commerce Commission?
 - A. If it were reversed?
 - Q. Yes.
- A. But it never has been reversed that I know of. It never has been reversed. The American Railroads go to our Board of Transport Commissioners for the increase in international rates just the same as the Canadian Railways go to the Board of Transport Commissioners for authority to increase international rates to the same extent as rates within the United States.

Now, I repeat again, that if it was not granted all the United States railroads would have to do would be to withdraw their concurrence to the through rates. You would not have the through rate, you would have nothing but combinations on the boundary, and the Canadian shippers and receivers Would be far worse off than they are today.

- Q. Because they would have to have a combination of two locals?
 - A. Yes, sir.

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- Q. Now, Mr. Jefferson, do you think that there would be any advantage in joint sittings of members of both the Interstate Commerce Commission and the Board of Transport Commissioners on questions of joint through international rates?
 - A. I would not think so, no.
 - Q. There would be no advantage at all?
 - A. No, sir.
- Q. Could you tell me why you think there would not be?
- A. Because, I would say in answer to that question, you would be no farther ahead, because the way things are done is what should be done, and would no doubt be done if you had joint sittings of the two Commissions, because it is in the interests of good business to do it the way we are doing it doday.
- Q. And, therefore, you say, that any recommendation that there should be joint sittings between members of the two Boards, is really not worth considering, because the effect would be bound to be the same?
 - A. Yes, you would accomplish nothing.
- In other words, from the point of view of international rates, the situation in Canada today really amounts to this, that whatever the Interstate Commerce Commission decides should be granted to the American Railways, the same proportionate increase must be granted by the Board of Transport Commissioners?
- A. Must be granted by the Board of Transport Commissioner if you want to preserve the continuity.
- Q. In order to retain this continuity of j'oint through rates and this even flow of traffic and soo on?

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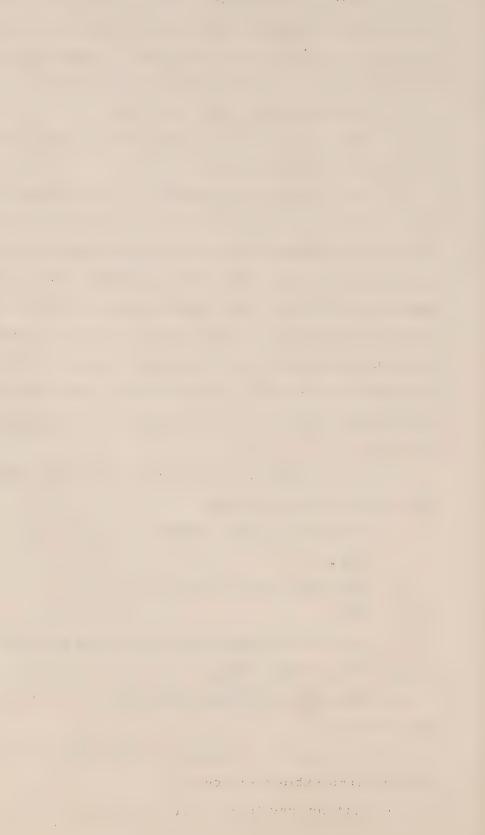
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- A. That is right.
- Q. Now, in the Canadian Pacific Brief, Mr. Jefferson, I think it was intimated, that there is not the necessity for a joint through international rate in the west, that there is in the east. Was that on class rates?
 - A. That was class rates, yes, sir.
- Q. Now, I wonder if you could tell me what is the yardstick for that necessity?
- A. Well, there was no yardstick for the necessity.

 What I said in my evidence was, that if you had through rates between Western United States and Western Canada, they would not be any lower than the combinations on the boundary and in fact, they might be higher, because, as I showed by exhibits, if you projected the United States scale of rates into Canada for equal distances in the United States, you would, in many cases, have higher rates than the international rates constructed in the manner they are today.
- Q. Well, would not the railways want those higher rates for additional revenue?
 - A. Wouldn't they want them?
 - Q. Yes.
 - A. You meanincrease them?
 - Q. Yes.
- A. Well, they might, but we certainly could not charge more than our locals.
- Q. Then, Mr. Jefferson, that is the way you determine that necessity?
- A. If there is a necessity for through rates lower than the combinations of locals.
 - Q. And you say there is not that necessity in the



west today?

- A. I say not only there is not the necessity, but you could not get the American lines to approve of a lower scale of through international rates, below what they have in their own country.
- Q. Well, is it the volume of traffic or lack of volume of traffic out there, that has brought that situation about?
- A. Volume has nothing to do with the statements $\ensuremath{\mathsf{I}}$ have just made.
 - Q. It has not?
- A. No, sir. You see, you might say the system has grown up because of the lack of volume of class rate traffic, but bear this in mind, that we never had joint through class rates between Western United States and Western Canada. There may be exceptions, but I am speaking in the main. Prior to the early 30's all rates were based on what we call the St. Paul or Duluth combination. That is, if you had a shipment going from Chicago or Cincinatti to Winnipeg or Edmonton, the St. Paul combination prevailed, and the St. Paul combination prevailed if it went to, say, Fargo N.D., but in the early 30's the Interstate Commerce Commission made through rates. They did away with their rate making at St. Paul and Duluth, and made through rates to Fargo or Grand Forks, and right up to the boundary.
- Q. Then, Mr. Jefferson, is it fair to say, that the situation in the west is really governed today by the American Railways?
- A. It is governed by the American Railways to the extent that they have their rates to the boundary and we have our rates beyond the boundary, and, as I said before,

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I do not think you would ever get them to agree to a lower basis of rates from origins in Canada to destinations in the United States on a basis lower than is applicable on the same commodity within the United States.

- Q. I thought that that was an example of the reason they would not, because you say, "On the same commodity", that that is a case where they say: "You cannot have this lower rate in Canada, because that would give preference to the Canadian", and thus market competition was the real factor?
- A. Quite right, but all I was saying was, whether there was market competition or not.
 - Q. Whether market competition or not:
 - A. That is right.
- Q. Now then, in that particular instance, the Canadian railways are really in the hands of the United States railways? Even if you wanted to give a lower rate, you really could not do it, because the shippers in the United States would complain, the United States railways would cancel it, and the result, you say, would be of no benefit to either the Canadian railways or the Canadian shipper?
 - A. Yes. sir.
- Q. So, you are really in the hands of the United States railways in that case?
- A. Quite right, but I do not think you could say that their position is an unjustifiable one.
 - Q. Now, at page 15051 in the same Volume, you say:

 "The volume of traffic in the east is

 much greater than the west, and there is not the

 same necessity for through international class

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rates in the west."

- A. Movement at class rates?
- Q. Yes, and there is not the same necessity for through international class rates in the west because commodities produced in the west moving to points in the west are covered by different rates ?
 - A. Where /you reading from?
- Q. From 15501. I have more or less summarized it. I gathered from that that volume did play an important part. Am I incorrect?
- A. Quite right. I admit, as I said there, that the volume of traffic moving at class rates between points in Eastern United States and points in Eastern Canada is much greater than between points in Western United States and Western Canada. You see, in Western Canada, we have commodity rates both south-bound and north-bound for the large volume of traffic which moves.

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THE CHAIRMAN: Q. Pardon me; are you talking of international traffic now?

1. Yes, sir, international. Now, the volume that moves at class rates between Western Canada and Western United States is small in comparison with between Eastern Canada and Eastern United States. That is all we are saying there.

MR COVERT: Q. I gathered from that that that was the reason there was not the same necessity for through international class rates in the west?

- A. Quite right; that is the fact.
- Q. Then at pages 15069 to 15072, Mr. Jefferson, you I think showed the results of a conference between the railways and the Canadian Manufacturers Association, the Toronto Board of Trade and the Montreal Board of Trade, about joint international rates. You recall that, Mr. Jefferson?
 - A. Yes, sir.
- Q. And I think at that time all came to the conclusion that it was the only practicable method of applying the increased charges authorized to the international rates, that is, that there should be the same increase in Canada as in the United States?
 - A. Yes, sir.
- Q. That is to say, that even the Canadian shippers themselves, who I presume would be in the Canadian Manufacturers Association, the Toronto Board of Trade and the Montreal Board of Trade, they all -- that is, the shippers themselves -- in effect were asking that the joint international rates should have the same increase in Canada as in the United States?
 - A. That is right.
 - Q. Even though they might be on a higher level than

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the general increase in rates in Conada?

- A. That is right.
- Q. Now, that might indicate, Mr. Jefferson, the importance of this so-called continuity of flow; I think you went so far as to say that it would be ruinous to Canadian shippers and receivers?
 - A. I think it would.
- Q. So here is a case where you have the shippers themselves in effect asking for higher rates?
- A. Quite right. It is better to have it done that way, the way it is done, which is the most practical way, than to have the consequences.
- Q. Now, to the uninitiated, Mr. Jefferson, that does look a little peculiar, doesn't it, that someone should be asking for higher rates?
- A. I will agree with you. I have on a veryfew occasions, though, had shippers come in and suggest to me that I increase some freight rates; but it has happened.

MR O'DONNELL: All from Alberta.

THE CHAIRMAN: Q. That is interesting. Do you mean on traffic wholly Canadian?

- A. On wholly Canadian or international. What I have in mind, principally international.
- Q. I can understand the reason for it on international traffic.
 - A. Yes, sir.
- Q. But you have also had the same request for traffic within Canada?
- A. I cannot recall any within Canada; I can international.

MR COVERT: Q. Now, as I say, to the uninitiated that sounds peculiar, but you say that it is not a peculiar asituation in international traffic; it is a logical

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thing, you said?

- A. That what?
- Q. That here we have shippers themselves, represented by these Boards of Trade and the Canadian Manufacturers
 Association, recognizing that this larger increase, really the American increase, be applied to the Canadian portion of the joint through rate?
- A. It is much better for the Canadian shipper and receiver to pay a higher international rate than to have the through rates cancelled and pay a still higher rate.
- Q. In effect, then, the reason you say they were asking for it was because if it was not done that way they would be paying still higher rates?
- A. Quite right. I won't say they asked for it, but they concurred that it should be done.
 - Q. They saw the force of your reasoning?
 - A. Yes, sir.

COMMISSIONER INNIS: Q. Concurred or acquiesced?

A. Well, either.

MR COVERT: Q. I think it is fair perhaps to say, Mr. Jefferson, that in this case they really concurred?

MR O'DONNELL: They begged them to do it.

MR COVERT: Q. Yes, they really asked for it?

- A. They really asked for it?
- Q. Yes.
- A. Well, I suppose, as I said before, they asked for it because they would rather have it than what might be the consequences.

MR FRAWLEY: Q. Were Montreal and Toronto speaking on behalf of Canada, the whole of Canada, in that?

- A. I beg your pardon?
- Q. That was Montreal and Toronto that were doing that concurring?

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A. I think it would apply all over Canada.

MR O'DONNELL: Canadian Manufacturers Association.

MR COVERT: Q. You say there would not be any different situation as far as the rest of Canada was concerned than there would in Montreal and Toronto?

- A. No, sir.
- Q. None at all?
- A. No.
- Q. The application of that increase would not, for example, act as a sort of tariff in favour---
 - A. I beg your pardon?
- Q. Act as a sort of tariff in favour of Montreal and Toronto?
 - A. I don't know how. How do you mean?
- Q. Well, I just ask you that; you do not see how it could?
 - A. No, sir. To me it is so simple.
- Q. Well, you have been in the business a long while, $\operatorname{Mr.Jefferson}$.
- Q. I don't mean it that way, sir; but here are lumber rates from Vancouver, from British Columbia, from Northern Alberta, to the United States, made in relation to the rates within the United States. Now, if you did not increase the rates from the Canadian shipping points at the same time and to the same extent as in the United States, how long would the United States producers of lumber stand for the increase in their own country? It has just got to be done, and if it is not done, then the railways in the States would just say, "All right, we withdraw our concurrence. Put the rates up to the combination of locals if you won't increase them as they should be."
- Q. I can understand that, Mr. Jefferson, where there is market competition, but I just have not been able to

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follow you in the case where there is not market competition.

A. I do not know where you would draw the line, how you could differentiate between the rate if there was market competition and one if you might find one where there was not some semblance of market competition.

THE CHAIRMAN: Have we had an case where there is no market competition?

MR COVERT: That is what I wanted to find out, Mr. Chairman. It seemed to me---

THE CHAIRMAN: We proceed all along on the theory that there is market competition, consequently there must be no advantage given to the Canadian shipper. Is there such a thing, then, as a transcontinental rate existing where there is no market competition?

MR COVERT: You mean international?

THE CHAIRMAN: Yes, I mean international.

THE WITNESS: An international rate?

THE CHAIRMAN: Yes.

THE WITNESS: You might.

THE CHAIRMAN: The fact that it is international does not really mean that it must be competitive between the two countries; it may or may not be.

THE WITNESS: But you might have a rate on something that is shipped from Canada to the States that is not produced in the United States.

THE CHAIRMAN: Q. Well, have we any such case?

- A. I cannot put my finger on any, no, sir.
- Q. What about mnickel, International Nickel; nickel products are confined to Conada, aren't they?
 - A. Yes.
 - Q. Maybe asbestos too?
 - A. Yes.

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- Q. Are there through rates on that?
- A. You might have asbestos. You might have importations of asbestos, importations of nickel, into the United States at seaboard ports.
- Q. No, but I am talking now of Canadian products, and trying to find some cases where such a thing might exist. Nickel occurs to us, and asbestos.
- A. Yes, sir. All I am pointing out is that even with nickel and asbestos, it may not be produced in the United States itself, and I think that is a fact, but just because the big movement is from Canada to the United States does not mean that there is no movement into the United States from other countries, and it reaches the United States at its seaboard ports, and the rates would be increased.
 - Q. How much nickel do you get in other countries?
 - A. I don't know.
- Q. Well, is there a through rate now on shipments of nickel say to the United States?
 - A. Yes, sir.
 - Q. There is a through rate?
- A. Oh, yes; we have through rates on what you call nickel matte, if you will, from Copper Cliff to United States destinations.
 - Q. Where does it go in the United States?
- A. Well, the heaviest movement is to another plant of the International Nickel Company at Huntington, West Virginia.

MR COVERT: Q. In that case, Mr. Jefferson, what shipper or railway would complain?

- A. Complain of what?
- Q. If you did not have the same increase in the Canadian portion of that joint international rate?
 - A. You might find in that one instance that no shipper

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-16524- Mr. Jefferson

that rate on nickel matte -- I will use that as an illustration -- from Copper Cliff to Huntington, West Virginia, the same way that all rates are increased, how are you going to preserve your rates by different routes? You have got routes from Cooper Cliff to Huntington, West Virginia, via the Niagara frontier, you have got routes via Port Burwell and across the ferry to Ashtabula, Ohio, near Cleveland, you have got rates via Detroit -- speaking of Canadian Pacific now. Then the Canadian National have rates via Port Huron. The rates do not divide in a way each side of the boundary that you can do it any other way.

- Q. Then again I take it that whether or not there is market competition you still must increase all international rates the same way?
- A. That is my view, yes, sir, and if you do not -don't forget this, too: If you do not increase international rates to the same extent as in the States, the
 next thing you know you would have a lower rate from
 Canada to the United States than from the boundary to a
 point in the United States, which would create what they
 call over in the United States fourth section violations.
 For instance, you cannot increase a rate from Detroit to
 Chicago and not increase the rate from Windsor to Chicago,
 whether there is market competition or not. The first
 thing you know, you would have a higher rate f rom Detroit
 to Chicago than Windsor to Chicago.
- Q. And you say, then, Mr. Jefferson, that the Interstate Commerce Commission would take that into consideration in considering violations of the fourth section?
 - A. They might, yes; but they would not ---
 - Q. Tell me this, Mr. Jefferson---
 - A. I could not believe that they would grant a

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fourth section violation for the reason you cite. There would have to be some real reason why there should be a lower rate from Windsor than from Detroit to Chicago.

- Q. And they would not take into consideration, or as a valid consideration, that for example the Board of Transport Commissioners said that the railways in Canada were unable to show financial need for that amount of increase?
- A. I would not think that would be a satisfactory reason for them at all.
- Q. Now, tell me, Mr. Jefferson, is discrimination one of the things that they would consider?
 - A. Discrimination in what way?
- Q. Well, that a lower rate in Conada would be considered as discrimination as far as the United States roads were concerned?
- A. Well, I will go back and cite the two cases that I gave in my evidence, that if you had the same rate on newsprint paper from Millinocket, Maine, to Chicago, and from Grande Mere, Quebec, to Chicago, and you increased the Millinocket rate 25 per cent and you did not increase the Grande Mere rate 25 per cent, I am sure the Millinocket shipper would claim discrimination.
- Q. What I wanted to find out was whether that was one of the grounds that would be put forward by the American roads, and I wondered if you had---
 - A. That is one, yes, sir.
 - Q. It is?
- A. Just the same as I cite in my evidence the rate on lumber from Seattle to Boston as compared with Vancouver to Boston. You cannot increase one without increasing the other.

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-16526- Mr. Jefferson

increased to exceed the combination of the two locals, does it then just disappear?

- A. Yes, sir; but I do not think it would.
- Q. It would depend on the magnitude of the increase and the length of the hauls, wouldn't it?
- A. Quite so, yes, sir; but you might find instances where it would occur, but broadly speaking, no, it would not occur.

MR COVERT: Q. Then, Mr. Jefferson, I just wanted to take up with you for a few minutes the question of long and short haul.

- A. Yes, sir.
- Q. My understanding is that the Canadian Pacific says that it is not feasible simply to apply Alberta's suggestions to the transcontinental rates, that you would then have to in effect apply it to all competitive rates; and that is your view?
 - A. Yes, sir.
- Q. Have you calculated at all, Mr. Jefferson, what it would mean to the Canadian Pacific in dollars and cents in a normal year or in any year, what it would mean in loss of revenue to Canadian Pacific, if you did apply Alberta's suggestions to the transcontinental rates?
 - A. No, sir.
- Q. I suppose that would be a very difficult thing to do?
- A. Quite right. As I said in my evidence, if Alberta got the coast rate as the maximum, Saskatchewan would want something lower, Manitoba would want something lower, and you would destroy the entire rate structure.
- Q. Have you discussed with American roads, American railroads, at all what has happened as far as they are concerned since the changes have been made in the law with

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respect to transcontinental rates or this fourth section relief? Have you discussed with any of the traffic men?

- A. Have I ever discussed it?
- Q. Yes.
- A. Oh, yes.
- Q. You have. And they think that it is an unsatisfactory situation in the United States?
 - A. The railroads themselves?
 - Q. Yes.
- .A. They are just as much opposed to it as the Canadian railways, but they have to do it, yes, sir.
- Q. Now, supposing, Mr. Jefferson, that the railways satisfied the Board of Transport Commissioners from time to time that the transcontinental rates were not unnecessarily low, that they were compensatory, and that there was actual competition or, if I may use the expression, real potential competition; don't you think that that would perhaps satisfy Alberta?
 - A. I don't know.
 - Q. You have not gathered that?
 - A. No, sir.
- Q. Now, do you think, Mr. Jefferson, that there should be a burden upon the railways to satisfy the Board of Transport Commissioners as to those things?
- A. I do not think so. I think it is something that you would be asking the railways to do for no end. If anyone is hurt they have a right of complaint and a right to a hearing and a decision. Now, why report on something when no one is hurt or believes he is hurt? Of course, I am one of those that don't think anyone is hurt.
 - Q. I think that is clear, Mr. Jefferson.
 - A. Yes, sir.
 - Q. But what I suggest to you is this, that the rail-

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ways do satisfy themselves of that, you tell me?

THE CHAIRMAN: Of what?

MR COVERT: Q. Do the railways satisfy themselves, Mr. Jefferson, that these transcontinental rates are not unreasonably low?

A. I have said we do, yes, sir.

THE CHAIRMAN: Q. Have we any test of what they mean by not unreasonably low? Does that just mean that they are compensatory? Is that what you mean?

A. That is what I mean, yes, sir.

MR COVERT: Q. You satisfy yourselves that they are compensatory?

- A. Yes. sir.
- Q. And you satisfy yourselves that there is real or potential competition?
 - A. Yes, sir.
- Q. And do you satisfy yourselves that they are not lower than is necessary to retain the traffic?
 - .. That is right.
- Q. Then is there any reason, Mr. Jefferson, if you, the railway, satisfy yourselves, why you should not satisfy the Board of Transport Commissioners of the same thing?
- A. We satisfy the Board of Transport Commissioners on complaint.
 - Q. On complaint?
 - A. Yes, sir.
- Q. And again you think that that is the proper way that it should be done?
 - A. Yes, sir.

 $$\operatorname{MR}$$ COVERT: Mr. Chairman, that is all on that subject.

THE CHAIRMAN: Then we will adjourn now.
---The Commission adjourned at 12;57 p.m. to meet again

at 2:45 p.m.

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AFTERNOON SESSION C. E. JEFFERSON - RECALLED EXAMINATION BY MR. COVERT (CONT'D)

MR. COVERT: Q. Now Mr. Jefferson, I want to deal with a few matters related to the Maritime Freight Rates Act. I think it would be fair to say, Mr. Jefferson, that the statute was passed by the Dominion Parliament after a careful study by the Duncan Commission and a recommendation by that Commission, and that it was an attempt to fulfil at least what they regarded in the maritimes as pre-confederation promises, and an attempt to build up the maritime provinces economically because of the serious condition which was found to be in existence at that time.

- A. Yes, sir.
- Q. I understand that they now allege that by virtue of truck competitive rates many of the advantages conferred by the statute have been wiped out. Let us assume for the moment that that allegation is correct. Would you say that from a practical point of view there is no way of rectifying that situation?
- A. Well, I find it very difficult to think of something that is correct, if it is incorrect, but I don't know how you would rectify it unless you made the competitive modes of transportation put their rates up.
- Q. My understanding was, Mr. Jefferson, perhaps the difficult thing was that if a competitive rate, for example, were put into effect in Ontario or Quebec, that the maritimes have asked that that same rate should be put into the effect in the maritimes even though there is no competition there.

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- A. What would they ask if the railway didn't do anything about it, and they still had the competition?
 - Q. I don't think I quite follow you.
- A. We put in a truck competitive rate in Ontario and Quebec on some commodity that the maritimes are shipping to Ontario and Quebec, and supposing we didn't meet the truck competition, the maritime shipper would still have to have the competition of the trucker, but he wouldn't have the truck to meet --
- Q. I understand that; that is your view on it.

 What I was trying to canvas was whether or not there
 was in your opinion any difficulty in rectifying a
 situation of that kind.
 - A. I say it would be impossible to.
- Q. In any event if you did put in the competitive rate in the maritimes, you would first say, I think, that it was unwarranted.
- A. I don't know whether I understand you. You say within the maritimes...?
 - Q. Yes.
- A. Are you going to the same market or are you going to a different market?
- Q. Suppose you lower your rate in Quebec on potatoes?
 - A. Yes, sir.
 - Q. Then you attract competition?
 - A. Yes.
- Q. The maritimes allege, it is my understanding, that that affects the potato industry in, we will say, New Brumswick?
 - A. In the shipping--?

 THE CHAIRMAN: In the same market?

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MR. COVERT: In the same market.

THE WITNESS: Yes, sir.

MR. COVERT: Q. And they say their rate should be brought down to meet the competitive rate that you have put in in Quebec?

- A. Yes, sir.
- Q. Again, I think I understand your answer is, if you didn't put in the competitive rate in Quebec, the maritimes would have their same rate?
 - A. That is right.
- Q. I think I understand that, but my point is that to ask the railways to put the competitive rate into effect, to enable the New Brunswick potato growers to meet competition for the same market, you say there is no reason for asking the railways to do that?
 - A. That is right.
- Q. You believe, subject to that, there is no practical way of amending the Maritimes Freight Rates Act to correct the situation which the maritimes alleged exists
 - A. That is right.

THE CHAIRMAN: Is that the only solution they themselves propose, that their transportation rates by the railway be made the same as those competitive rates which have been granted in Quebec and Ontario? Or, do they ask alternatively for a larger subsidy?

MR. COVERT: That was the subject I was going to deal with next.

THE CHAIRMAN: I would like to have my mind refreshed as to what they are asking for.

MR. COVERT: My understanding was that they pointed out the difficulty. . . First, they say the Maritime Freight Rates Act intended to confer upon the people in the maritimes certain statutory advantages,

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and by virtue of these truck competitive rates in the central provinces, those advantages are being taken away. I think they give as an example a case that had come before the Board of Transport Commissioners, and which the Board suggested the only thing they could do would be to say to the railway, you must take away that competitive rate.

- Q. That is my understanding.
- A. Take away the competitive rate in Quebec?
- Q. Yes.
- A. Yes, sir.

MR. COVERT: Mr. Jefferson points out that still does not change the situation as far as the shipper is concerned.

THE CHAIRMAN: He would still have the truck competition.

MR. COVERT: Yes.

THE CHAIRMAN: If they did obtain a reduction of the railway rates in the maritimes that would be so much in their favour.

MR. COVERT: Oh, yes.

THE CHAIRMAN: I think they are asking the railway that the rate be brought down to the same level as the competitive rate.

MR. COVERT: Yes.

- Q. Then, Mr. Jefferson, I understand that there would be no advantage to the railway to do that; it would simply be better for them not to put in the competitive rate in the central provinces.
 - A. That is right.

 THE CHAIRMAN: Q. Better for the railway?
 - A. Yes, sir.

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There is no competitive necessity for the railways to reduce their rates.

- Q. However, the potatoes keep moving by rail? You get the freight anyway from the maritimes?
 - A. Yes, sir.

THE CHAIRMAN: Mr. Covert, I don't recall this point exactly, and I don't see Mr. Barry here, but did they bring their case exclusively on this request for the lowering of the railway freight rates?

MR. COVERT: I don't know whether I can answer that.

THE CHAIRMAN: Did any body suggest an increase in the subsidy arrangement?

MR. COVERT: There have been suggestions for increases in the subsidy and there have been suggestions for extending the area to which this reduction applies.

- Q. Dealing with that, Mr. Jefferson, I think your view is that you would be opposed to both an increase in the amount of subsidy . . .?
- A. An increase in the amount of subsidy is a matter entirely for the government to determine.

 I say the railways! revenue should not be reduced from the maritimes because of the necessity of reducing the rate in Quebec to meet the competition of the trucker.
- Q. But if they reduce the rate and increase the subsidy I think the Chnadian Pacific's position would be that that condition would make it more difficult to make rates in the rest of Canada.
- A. No. We have said that whatever the government does the subsidy should not be paid through the railway; it should be paid direct to the shipper.
 - Q. Direct to the shipper?

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A. Yes, sir.

THE CHAIRMAN: Q. That is, you do not like the manner or arrangement of paying the subsidy?

A. That is right, but we are not suggesting a change in the present Maritime Freight Rates Act --

MR. COVERT: Q. You are opposed in principle to the scheme of the Maritime Freight Rates Act, and you think it shouldn't be extended either percentagewise or in area?

- A. We say it is entirely a matter for the government to determine. Whatever the government determines, it should not be paid to the railway; it should be paid directly to the party who benefits.
- Q. You do not think, Mr. Jefferson, you could answer the question I put to you with a yes or no?
 - A. I did answer it.
- Q. I will put it to you again. I suggest that the position of the Canadian Pacific is that they are opposed to the principle of the Maritime Freight Rates Act, and to its extension both from the point of view of area and percentagewise?
- A. The answer is "no", subject to the qualifications which I made. I can't say no without a qualification.

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- 16535 - Mr. Jefferson

- Q. Perhaps I am wrong, but I think you said no.
- A. The answer is yes, subject to the qualifications which ${\tt I}$ made.
- Q. Now, Mr. Jefferson, in your equalization plan, you suggest that there will have to be amendments to the Maritime Freight Rates Act in order to enable the putting into effect of the Canadian Pacific's proposal on equalization?
- A. Yes, that is right, the pattern that I outlined in my direct evidence.
- Q. Now, do you know perhaps Mr. Evans can answer this. Is it the intention of the counsel for the Canadian Pacific Railway to give to this Commission the amendment to the Maritime Freight Rates Act which they would propose in this equalization plan? It seemed to me that they might not be intending to do so?

MR. EVANS: I had not intended to do so. I had thought that that was something that would have to be worked out in the scheme of equalization.

THE CHAIRMAN: Well, you deal with the subject in your Brief.

MR. EVANS: Yes, we simply put up in the Brief the matters that would have to be looked at when equalization or the before equalization becomes a reality, but I had not thought that this Commission would be interested in our views as to the exact language of the amendment to the Maritime Freight Rates Act.

THE CHAIRMAN: But you deal with that Act in your Brief?

MR. EVANS: Oh, yes.

THE CHAIRMAAN: And you say it is one of the

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THE CHAIRMAN: Well, it might be helpful. The closer people making a submission to us can get to the actual legislature proposed, the more help it is. Now, there may be some things that cannot be treated that way, but if you can bring it down to a concrete proposed amendment, we would all like to have it.

MR. EVANS: It would mean two things - (1) whether the Board should authorize the kind of equalization which we propose and (2) what would affect the Maritimes, before you could get down to really precise language, but I would be glad to give you a rough idea of what I think would be required.

THE CHAIRMAN: Well, we would be very glad to have it.

MR. COVERT: Now, Mr. Jefferson, I want to discuss with you for a few moments, the question of market pattern. Now, Mr. Jefferson, would you agree that over a period of years, freight rates being in effect, certain industries grow and carry on business on the strength of the rates in effect as compared with the rates in effect perhaps on the same commodity to another industry; in other words, that perhaps there is some relation between the two?

- A. Yes, sir.
- And that if they are built up on that basis, that if the relationship between the two industries is changed by a greater increase in the rate to one industry than to the other, that that might affect one industry or would affect one industry to the extent of the difference

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in the freight rate?

- A. Yes, sir, that is something that is bound to happen in any equalization plan.
- Q. Now, Mr. Jefferson, would you say that as far as possible, when there has been a relationship between rates, that there should be an attempt to preserve that relationship?
- A. Well, I do not know how you could preserve it and have equalization.
- Q. Well now, could I infer from that, Mr. Jefferson, that a plan of equalization is bound to upset this, what we might call, market pattern, between industries?
- A. Yes, sir, as I said on Friday, any equalization scheme to preserve the revenues of the carriers is bound to hurt someone. To what extent it is going to hurt them is a matter which has got to be determined, but if you are going to have true equalization, it is something that industry has got to stand.
- Q. Well then, Mr. Jefferson, it may possibly be, that in many instances, I suppose, the railways will advocate rather than true equalization, preservation of some of these market patterns or the preservation of differentials that have brought about market patterns?
- A. I do not think the equalization scheme that has been outlined in our pattern would really have that effect, for the reason, that, as we are discussing just now, within the east, we will say, and then again within the west . Now, the pattern would not cause any material change within the east or within a rate territory. It might put the rates up but, if one goes up, they all go up,

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and in the west it might be they might all go down, but you are going to have cases, where the rates within the east will go up, and the rates in the west will go down, and where the rates in the east will go down and in the west will go up, but I don't think that within a rate territory of that kind it would have the kind of disturbance that you are outlining.

- Q. But if you have complete equalization in Canada, then you would in fact, more or less, have one rate territory?
 - Α. That is right.
- And then, in a case of that kind, that is when the destruction of this market pattern may take place?
- It might, sure. I am not saying it would not take place.
- Then, what I am coming to is, that there are possibilities that equalization may be undesirable for that very reason?
- A. You cannot have equalization and overcome it. I will say that. There is bound to be somebody's rates going up and someone elses' going down.
- Q. You would say probably then, Mr. Jefferson, that a good many shippers and industries really won't want equalization?
- A. Probably the person who is going to be hurt would not want equalization.

THE CHAIRMAN: Mr. Covert, it may be well for us to have an idea of what is really meant by "equalization". That is, suppose you establish such a thing. Would it mean then the removal of the railways' present privilege to give competitive rates?

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MR. COVERT: No, Mr. Chairman, I do not think there is any suggestion - certainly not in the Canadian Pacific's plan of equalization, is there, Mr. Jefferson?

THE WITNESS: That is right. What we said was, that the plan of equalization that we outlined, would apply to, first, class rates, second, commodity rates, and third, the special rates related to commodity mileage rates, but that no plan of equalization could apply to competitive rates or special rates which have no relation to those which I have mentioned.

THE CHAIRMAN: In your view, no plan of equalization should apply to those rates?

- A. No; sir.
- Q. It is not only your view I am considering now. The word "equalization" is found elsewhere. Has it been interpreted to mean anything in particular?

COMMISSIONER INNIS: There seems to be two types, the one Mr. Jefferson which I think you called "true equalization"?

THE WITNESS: That is right.

- Q. And another which is called "equalization". I am not sure if there is a distinction.
- A. There is a distinction, because, as I said Friday, there are some things you can equalize, and some things which, in my opinion, you cannot equalize. Competitive rates is one of them. You cannot equalize competitive rates.

THE CHAIRMAN: Might it not be said, that competitive rates disturb your equalization?

- A. That is right, yes, sir.
- Q. Break it up. You cannot have both?

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- A. No, sir, competitive rates would disturb equalization, but if you put in a competitive rate, you are only meeting the competition.
- Q. I know that; I am just trying to arrive at some definition of the word "equalization".

MR. COVERT: I suppose, Mr. Jefferson, that true equalization, would mean, that you would carry the same goods for the same distance at the same price no matter where or under what conditions?

- A. All over Canada, yes, sir.
- Q. And your view would, of course, be that that would be impossible?
 - A. That is right.
 - Q. And impractical?
 - A. That is right.
- Q. Because, competitive conditions for example, make it impossible?
- A. Well, the answer is, that if you cannot make a competitive rate without spreading out all over the country, you just would not make a competitive rate.

THE CHAIRMAN: Well, of course, the equalization phrase is always accompanied by the words "under substantially similar circumstances and conditions".

MR. COVERT: That is right.

THE CHAIRMAN: Well, it depends then how wide the interpretation of those words is to be made?

MR. EVANS: Our equalization proposal did not depend on that. Our equalization proposal so far as it deals with class rates and commodity mileage rates is to equalize regardless of different conditions east and west. It was an absolute equalization of those rates.

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THE CHAIRMAN: I am not particularly talking of your Canadian Pacific proposal; I am talking of the language that we find in Orders-in-Council, and elsewhere - in the Act even. We find expressed a desirability to arrive at an equalization of freight rates, but always with the additional qualification "under substantially similar circumstances and conditions".

MR. EVANS: Yes, I think some of the difficulty with that Section and some of the language that been used in it, is that that is a discrimination Section.

THE CHAIRMAN: But take, for instance, just now, there is a general revision proposed before the Board of Transport Commissioners under which they are asked to bring about an equalization subject to that same phrase "under substantially similar circumstances and conditions". I am just canvassing at the moment as to just what was meant by the language there.

MR. COVERT: I think it is fair to say in that connection, Mr. Chairman, that both in this one, and in the one that preceded it in 1925 (that was P.C. 886) that the language is strikingly comparable in each case and also that one might gather that it was perhaps taken from that Section of the Railway Act.

THE CHAIRMAN: Yes, but was the language interpreted in the course of that investigation?

MR. COVERT: It was interpleted - for instance one of the things - I think it was very clear that a different situation pertained in the east and in the west, and they took into consideration, for instance, the competitive conditions. I think that is right, Mr. Jefferson?

A. That is right.

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MR EVANS: It would be practically impossible, I should think, for a direction to be given to the Board to make a study of equalization without some qualifying words.

THE CHAIRMAN: Well, the qualifying words are there all right.

MR EVANS: For example, if the Board were told, "You must equalize all rates in Canada," that would be a mandate that might be interpreted by the Board as going into competitive rates and these special commodity rates; so I suppose the intention was to limit them. But I thought perhaps it was important for the Commission to know that we do not make that distinction, where we propose equalization of class rates.

MR FRAWLEY: It perhaps will not be out of turn, since Mr. Evans has said that, to say that Alberta proposes that there should be equalization of class rates and commodity rates, special commodity rates. We do not, of course, say that there should be nor indeed do we think there can be, any equalization of competitive rates, but---

THE CHAIRMAN: You do not ask that the powers of the railways to createcompetitive rates .be taken away from them.

MR FRAWLEY: Oh, no; but there is that sharp distinction between Alberta and the Canadian Pacific. We do think that an equalization of special commodity rates can be worked out, and that is what we are asking the Commission to recommend.

THE CHAIRMAN: Pardon me a moment. If you had in mind just now, Mr. Evans, section 314, I would again call your attention to the fact that there it is all confined to goods passing over the same line or route.

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 $$\operatorname{MR}$$ EVANS: Yes. I will be delighted to discuss that at any time---

THE CHAIRMAN: Yes; I mean, it is not general there; it is limited to that.

MR EVANS: May I just say this about it, that 314 is a discrimination section.

THE CHAIRMAN: Yes, it is.

MR EVANS: And until you have a common market and two shippers competing in a common market, none of those words "same line or route" or any other words in that section have any relation to the subject, so that when you get down to interpreting "same line or route" you have to read it as simply meaning that where two people are trying to get into the same market with goods over the same line or the same route, then the section applies.

THE CHAIRMAN: Yes. Well, I mention it now for this reason, that I am not aware of any other section of the Railway Act which calls for equalization of rates.

Section 325 says rates must be fair and reasonable, but does any other section mention those very words?

MR EVANS: I do not think it does.

THE CHAIR MAN: Now, there is the point. So far as the ...ct is concerned, equality in that language, charged equally to all parties, occurs only in 314, as far as I know.

MR EVANS: Yes, but the words -- and that is another subject on which I have been asked to give the Commission my views -- the words "just and reasonable" in themselves import a comparison with other rates.

THE CHAIRMAN: Oh, yes, of course.

MR EVANS: And in the words "just and reasonable" you may look at other rates in different parts of the country, and they do not need to be on the same line or route.

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THE CHAIRMAN: No, no; and they do not need to be equal.

MR EVANS: They do not need to be equal.

THE CHAIRMAN: But there is talk of creating an equalization of freight rates.

MR EVANS: But what I am saying to your lordship is this, that the Board today could say, "We think rates should be equal east and west, on the ground that we think it is just and reasonable that they should be," and in all of the cases from the very beginning, where they whittled away the difference between the east and the west, they proceeded under the general powers of the Board to make just and reasonable rates.

THE CHAIRMAN: Quite right. Now, when the general term used is, as you say, "just and reasonable", in some cases that may call for equalization and in some cases not.

MR EVANS: Quite so; and it is for the Board to say, and they can consider whether it is just and reasonable to have these differences.

THE CHAIRMAN: Well, I won't go any further with it just now.

COMMISSIONER INNIS: Do you know the origin of the words "same line or route"? When did it come into the Act?

MR EVANS: I am sorry to say that I have not done a historical review of it, but I think when it is viewed in the light of the fact that it is a discrimination section, there really is no difficulty in interpreting those words.

COMINISSIONER INNIS: You do not know whether it came from the Interstate Commerce Commission or any other source?

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MR EVANS: I will be glad to look into it.

MR COVERT: Q. Now, Mr. Jefferson, I just wanted to ask you whether you think, when the Board of Transport Commissioners is taking into consideration the question of allowing general increases, that it should be a function of the Board to investigate as to whether or not market patterns are being destroyed or disturbed?

A. No, sir, I don't. I think if they all go up alike that it preserves the market pattern.

COMMISSIONER ANGUS: Q. Did any difficulty with regard to market patterns arise when the mountain differential was abolished?

- A. Well, as I said the other day, we did have instances when the mountain differential was removed, and a long distance shipper got a greater reduction in his rate than the short distance shipper; the short distance shipper did not like it.
 - Q. Was anything done about it?
 - A. I beg your pardon?
 - Q. Was anything done about it?
- A. No, sir, nothing was done about it. Took it up with the railways, but there was nothing that could be done about it.

MR COVERT: Q. Now, Mr. Jefferson, I just wanted to discuss with you another statement in the Duncan Commission Report; it is at page 25. At that page, Mr. Jefferson, the Commission said:

"At present the work of the Railway Commission is circumscribed within the two considerations, viz:-

- (a) Reasonable compensation to the carrying company, and
- (b) No unfair preference or unjust discrimination as between traders."

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Then it goes on to comment on section 320:

"Section 320 of the Railway Act seems to give the wider powers that we have in mind to the Railway Commission, so far as the question of undue preference or unjust discrimination may be involved:-

'320. In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment is necessary for the purpose of securing, in the interests of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher toll.'

Even there we feel that, if the intention was to have larger national interests in mind, the section should be made clearer, and instead of the words 'in the interests of the public' (which might be interpreted as in the interests of the 'consuming' public), the words should clearly state that it is national interests (both 'producing' and 'consuming') that are in mind. If this was not the original intention of the section, we suggest it is the intention which should now be imported into it. We feel further that a similar extension of authority should be imparted to the Railway Board in regard to the question of reasonable compensation."

Now, I just wondered, Mr. Jefferson, whether you had given any consideration to that matter, or whether you would have any comments as to that -- that is, whether or not those words should be changed to make it clear that both the producing and the consuming public are meant?

A., I am afraid I do not know enough about it.

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- Q. Do you think that consideration should be given to both the producing and consuming public?
 - A. I don't know.
 - Q. You would not care to express an opinion?
 - A. I would not, no, sir.
- Q. Then, Mr. Jefferson, I would just like to discuss with you for a moment the suggestions that were made -- I think perhaps it was chiefly in the New Brunswick brief -- about the arbitrary over Montreal. I think it was mentioned in both the New Brunswick presentation and in the presentation of the Maritime Boards of Trade. Now, at the time the railways made the application for the 30 per cent increase was there any suggestion among yourselves that the arbitrary over Montreal should be preserved for the benefit of the Maritimes?
 - A. No, sir.
- Q. None at all. Now, has this proposition ever been advanced in conferences between the two railways?
- A. I do not think so; not in connection with horizontal increases.
 - Q. Not to your knowledge?
 - ... No, sir.
- Q. Have you ever calculated what it would mean revenuewise?
 - A. No, sir.
- Q. You would suggest, Mr. Jefferson, that there would never be any sound reason for preserving it?
- A. I do not think there would be, no. I think the arbitrary should be treated just as if it was not there, as a part of the through rate.
- Q. And I suppose you examined the New Brunswick submission on that, did you, Mr. Jefferson?
 - A. Well, I will say I read it at the time, but I do

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not remember now what was in it.

- Q. There was nothing in it that would convince you that the arbitrary should be maintained?
 - A. No, sir.
- Q. Then, Mr. Jefferson, I wanted to discuss with you a few questions about motor trucks.
 - A. Truck competition?
 - Q. Truck competition.
 - A. Yes, sir.
- Q. Now, you have been for some time in charge of the traffic division of the Canadian Pacific?
 - A. Yes, sir.
- Q. And I suppose as such you would have made a pretty careful study of the business that you thought you were losing to trucks?
 - A. Our men are doing it all the time.
- Q. Has your railway ever prepared any estimates or figures as to just what you were losing to the trucks?
- A. I would say no detailed estimate, no, especially in recent years. It may have been done at one time, but I do not know of it.
- Q. I just wondered if you had any real what you might call sound estimate of just what business the Canadian Pacific was losing to trucks?
- A. I would not say we had one that could be relied upon today, no.
- Q. Now, I would like also to ask you this: Do you believe that regulation of for-hire trucks, leaving out the regulation of private commercial trucks, would be any substantial solution to your problem as far as truck competition is concerned?
- A. When you say for-hire trucks, you mean both common and contract carriers?

- Q. Yes, for-hire as opposed to privately-owned commercial trucks.
- A. I would say any regulation of for-hire trucks would be a step in the right direction.
- Q. I will put the question to you again, Mr. Jeftferson. I say do you think that that would be a substantial solution at all to your problem, the regulation of for-hire as opposed to private commercial trucks?
- A. So long as the regulation was equal to the rail-ways and was enforced, regulation of for-hire trucks the same as railways, would certainly be a step in the right direction. Then the trucks, the for-hire trucks and the railways would be competing on the same basis, and the private trucks which you speak of would be the competitors of both the railways and the for-hire trucks.
- Q. Do you not think, Mr. Jefferson, that this might lead to the private operator, when he found that perhaps he could not get his trucking done by for-hire trucks -- wouldn't it perhaps lead to a greater ownership of privately-managed trucks in business?
- A. It might lead to an increase in private ownership trucks.
- Q. But you still feel that it would be a substantial help to the railways?
- A. Certainly. It would be no worse for the for-hire trucks than it would for the railways.
- Q. Now, the next subject I wanted to take up with you, Mr. Jefferson, was the question of just and reasonable rates. First, my understanding is that your view is that railways today do haul a considerable amount of their traffic at non-compensatory rates?
 - A. A great deal?
 - Q. Yes.

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- A. I would not say that, no.
- Q. Perhaps I am not clear; perhaps I might enlarge on that. For example, you suggest grain and grain products under the Crows Nest Pass rates?
- A. Yes. I thought you were speaking more in terms of competitive rates.
 - Q. No, no; I am speaking of all rates.
 - A. All right, yes, sir.
- Q. One of the examples you would say are the Crows
 - A. Right.
- Q. Then I believe that you also say that the livestock rates are non-compensatory?
 - A. That is right.

THE CHAIRMAN: Although they are fixed by the railway itself, not by statute.

MR COVERT: That is right.

THE WITNESS: That is right.

MR COVERT: Q. And also the coal from Alberta to Ontario?

- A. Yes, sir.
- Q. Then there are the at-and-east grain rates?
- A. To Saint John.
- Q. To Saint John?
- A. Yes, sir.

THE CHAIRMAN: They are non-compensatory?

MR COVERT: They are non-compensatory.

THE WITNESS: Yes, sir.

THE CHAIRMAN: Q. Pardon me a moment; I want to get it clear as I go along. There again it is your own doing; there is no statute compelling you in that case?

E. That is right.

MR COVERT: Q. The same applies to the coal from

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Alberta to Ontario?

- Q. A. What do you mean, applies?
- Q. Well, there is no statute compelling you to?
- A. Oh, that is right, yes, sir.

THE CHAIRMAN: Q. Is there no order of the Board in that case, in the coal-carrying case?

A. No, sir, no order of the Board.

MR COVERT: Q. That is really perhaps as a result of negotiations with the Government, is it not?

A. That is right.

THE CHAIRMAN: Q. There is a contract with the Government, is there not, or something equivalent to that?

- A. It was an arrangement between the railways and the Government, yes, sir, when it was made -- not in the sense of a contract, but it was an arrangement that the railways made to publish some years ago in the early thirties an \$8 rate, \$8 per ton rate on coal from Alberta to Ontario.
 - Q. And that is still going on?
 - A. Yes, sir.
 - Q. And do you get any compensation for that loss?
 - A. Not from the \$8, no, sir.
 - Q. Not from anybody?
- A. No, sir. The \$8 is paid, \$2.50 by the Government and the rest by the shipper or consignee.
 - Q. At that you say you suffer a loss?
 - A. That is right.

MR COVERT: Q. Now, Mr. Jefferson, are there any other rates that you feel are not compensatory?

- A. You might find some others if our tariffs were combed and every rate analyzed -- I don't know -- but I have no others in my mind.
 - Q. That in general you would say would cover the

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field of non-compensatory rates?

- A. Yes, sir.
- Q. Apart from perhaps some minor exceptions which you say you might pick up if you combed the rates and made a study of each?
 - A. Yes, sir.

THE CHAIRMAN: Will you excuse me a moment? Just to make sure, what you said about coal does not apply, I think, to coal brought from Alberta to the Winnipeg market?

A. No, sir.

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Toological Rockler (1987)

MR. COVERT: Q. Now Mr. Jefferson, are there not many rates on sand and gravel which you would say are non-compensatory?

- A. Not that I can point out to you.
- Q. What about pulpwood?

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- A. No. I haven't made a study of earnings in pulpwood to see whether they are all compensatory or not, but I can say this, not to my knowledge.
- Q. Would you say that the rates on pulpwood, generally speaking are low?
- A. They are low, yes, sir. They are founded on getting a re-shipment on the manufactured product.
- Q. In wondered if that was not one of the reasons why you decided they are not compensatory; you perhaps put them low so that you would get a return product.
- A. I can't say from my own knowledge that the pulpwood rates are compensatory.
- Q. What about feed grain rates from the prairie to British Columbia?
- A. I wouldn't say they are not compensatory; they may not be as high as they should be.
- Q. You say they cover the out of pocket expenses and a little more?
 - A. Yes, sir, I would say so.
- Q. You would say then, Mr. Jefferson, that since these rates are non-compensatory rates, that the railway must make up their required revenue on other products?
 - A. Yes.
- Q. Then do you think it is true, Mr. Jefferson, that hardly any of your traffic is carried at the standard mileage rates?
 - A. That is right.

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- Q. Yet the standard mileage rates are just and reasonable rates?
 - A. The standard mileage rates?
 - Q. Yes.
- A. I would say they were just and reasonable rates, subject to the increase we have applied for.
- Q. If you had carried some of the products which you now carry at competitive rates, that is if you were able to raise those to the standard mileage rates, they would still be just and reasonable?
- A. Oh, yes, but I think it would be an impractical suggestion.
 - Q. I follow that.
 - A. Yes, sir.
- Q. If the standard mileage class rates were in effect on all of the products which you carry, and the traffic moved on those rates, the revenues of the railways would be far in excess of what they are today.
 - A. They might be far less than we have today.
 - Q. Perhaps you did not hear me.
- A. Because they might be so high that traffic would not move at all.
- Q. I made the statement -- perhaps you did not hear me -- that if the traffic moved at those rates?
- A. If the traffic moved, yes, but I don't think it would be a reality.
- Q. The next point I wish to discuss with you is on the same subject: you say, I believe, that as far as you are concerned, your view is that the words "just and reasonable" as applied to rates mean just and reasonable both to the shipper and to the railway?
 - A. That is right.

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- Q. So that in effect, Mr. Jefferson, the test of the justness and reasonableness of/rate really applies to the whole mass of rates?
 - A. Yes, that is right.
- Q. And as applied to a particular rate, from a practical point of view, I suggest to you that it would be practically impossible to say whether a particular rate was just or reasonable.
- A. Well, I don't know. I don't want to get into the law of the thing.
 - Q. But just from a practical point of view?
- A. From a practical point of view, you can determine whether a rate from A to C is reasonable in its relation to the rate from B to C.
- Q. From a practical point of view how would you, as a traffic man, determine whether a particular rate from A to B was just and reasonable?
- A. If I had a rate from A to C and I refused to give a similar rate from B to C -- leaving out the question of competition -- I would expect to be told that I had better treat the shipper at B the same as the shipper at A.
- Q. In other words one of the tests which you use would be the test of distance under substantially the same conditions and circumstances?
 - A. Yes, sir.
- Q. That would be a test of the justness and reasonabless of the rate?
 - A. Yes, sir.
- Q. Wouldn't that be predicated on the necessity of the justness and reasonableness of the rate with which you have made a comparison.

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- A. Yes, sir; and the just and reasonableness of the situation might be corrected by reducing B's rates to C or increasing A'srate to C.
- Q. Mr. Jefferson, what I am pointing out is, if you have a rate from A to B, and you want to test the reasonableness of a rate from A to C --
- A. We are not going to the same place now. I said from A to C with from B to C.
 - Q. I had it A to B and A to C.
- A. What I was talking about was C. Here is A going to C, and here is B going to C (witness illustrates).
 - And the distances are the same? Q.
 - May be the same, or may be different.
- If they were different there might be a difference in the rate.
- A. Quite so, but I might not be according the shipper at B proper treatment with respect to the shipper at A.
- Q. Let us take the same commodity the same distance.
 - The same distance? .

 - Yes. Coming from another --?

THE CHAIRMAN: Not the same destination? MR. COVERT: / You can have the same destination or a different destination, Mr. Jefferson, but I want to see how you would test whether the rate from A to B was just and reasonable. You say you would compare it with another rate?

- Yes, sir, going to the same place.
- To the same place? Q.
- Yes. A .
- Let us take the case of where they are both Q.

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at the same place?

- A. Yes, sir.
- Q. If you say that the rate from A to C is just and reasonable . . .
 - A. Yes, sir.
- Q. Because it is the same as the rate from B to C, then you presume that the rate from B to C is just and reasonable?
- A. Well, if I follow your question, if A to C is 200 miles, and B to C is 150 miles --
 - Q. Let us make them 200.
- A. Make them 200, all right; make both of them 200 miles. But I have got to justify why A should have a lower rate to C than B has.
 - Q. Say they are the same rate.
 - A. Yes.
- Q. I am asking you how I know whether a rate from A to C is just and reasonable. You tell me it is just and reasonable because it is the same as the rate from B to C.
 - A. Yes, if the distance is the same, I would.
- Q. All I am saying is that if it is just and reasonable because the rate from B to C is just and reasonable, then you are assuming that the rate from B to C is just and reasonable?
 - A. Quite right.
- Q. Then I am asking you how I know your rate from B to C is just and reasonable?
- A. Whoever complains about it has to tell me why it isn't reasonable.
- Q. The onus is on the complainant to show why it isn't just and reasonable.

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A. Certainly.

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THE CHAIRMAN: Q. Have you in mind the plaintiff who was complaining about the discrimination?

MR. COVERT: No.

THE CHAIRMAN: You have in mind the shipper who is complaining in the absolute that the rates do not comply with Section 325 (5), which says that it is the duty of the Board to fix, determine and enforce just and reasonable rates.

MR. COVERT: That is right.

THE CHAIRMAN: Subject, of course, to certain things and regardless of any statute.

MR. COVERT: That is right.

THE CHAIRMAN: And now, in that absolute case one complains.

MR. COVERT: Yes.

THE CHAIRMAN: Suppose they both complain.

THE WITNESS: If A complained and B did not, the perfect answer would be that B has not complained about it.

MR. COVERT: Q. But if both are unhappy?

- A. If A and B are both unhappy, then we have to see why they are unhappy.
 - Q. And they say it is not just and reasonable?
 - A. Yes.
- Q. Then you asked them, why isn't it just and reasonable?
 - A. Certainly.
- Q. What I want to find out is, do you say that it satisfies the railways and brings them in sufficient revenue?
- A. But he has got to show me why he can't afford to pay the rate we have in the tariff.

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THE CHAIRMAN: But he may be the richest man in the world.

The point is, has such a case ever come before the Board, do you know, Mr. Evans?

MR. EVANS: I don't know that particular case, but there are dozens of cases dealing with just and reasonable rates.

THE CHAIRMAN: Apart from discrimination?

MR. EVANS: Yes. I am going to suggest to the Commission that what is being asked Mr. Jefferson is a legal matter; the Board's decisions are there, and I am looking them up.

THE CHAIRMAN: Have you some of their decisions?

MR. EVANS: Yes, I have a lot of them which I

am having digested now, and I am getting a memorandum

prepared.

THE CHAIRMAN: All right.

MR. COVERT: Q. What I am coming Mr. Jefferson, is, as a matter of fact, wouldn't you agree that it was a very difficult thing for any shipper to attack a particular rate as being unjust or unreasonable?

- A. Maybe in the sense that you are expressing it, but if A and B cannot market their products at C, and come in and tell us so, and give us a good reason why they cannot market them, then we might give consideration to areduced rate, but we don't do it just because it is not fair and reasonable; if he proves to us that he needs a lower rate --
- Q. When you say "we might", you mean the railways might?
 - A. That is right.
 - Q. In other words he comes in and talks it over

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with you, and if he cannot convince you, the rate stands.

- A. That is right.
- Q. The only thing he can do then is make an application to the Board on the ground that the rate is unjust and unreasonable?
 - A. That is right.
- Q. I wanted to find out if you could help us on that in any way?
- A. As a traffic man I say the onus is on him to show it is unjust and unreasonable.
 - Q. And you would agree it is quite an onus?
 - A. I don't think it is any more than it should be.
- Q. It would be fair, I think, Mr. Jefferson, to say that as far as you are concerned one of the chief things about just and reasonable rates is that they must be such that they will supply the railways with sufficient revenue to carry on?
 - A. Certainly.
 - Q. And if a large mass of rates are non-compensatory --
 - A. Which they are not.
- Q. Well, I thought we had just agreed that, as far as you were concerned, there was a large volume, for instance the Crow's Nest, the livestock, and the at and east rate?
 - A. A substantial volume, but not the larger volume.
- Q. I did not say "larger"; if I did, I certainly did not mean it.
 - A. A large volume, yes, sir.
- Q. Then, I thought we had agreed that the other rates were bearing perhaps more than their fair share?
 - A. Quite right.

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- Q. I had suggested, on the ordinary meaning of the words "just and reasonable", if these " other rates are bearing more than their share, perhaps they are unjust and unreasonable because of the situation with respect to the non-compensatory rates?
- A. That might be; I won't say they are unjust and unreasonable, but they might be lower if the other rates were higher.
- Q. Now, Mr. Jefferson, I think you also said the other day that if a rate to a competitive point was \$1.00 . .
 - A. Yes, sir.
- Q. And the rate to an intermediate \$5.00, that that in itself would not make the rate to the intermediate point unjust and unreasonable?
- A. I think I said that to someone; I have forgotten who it was now.
 - Q. You think that is so?
- A. Yes, sir, but I don't/where you will find a case like that, such an extreme case.
- Q. Based on your experience, Mr. Jefferson, would you say that as far as attacking a rate as conferring an unjust or an undue preference, or a rate being unjustly discriminatory, that a shipper has a good chance if he can demonstrate or prove the facts?

A.To the railways?

- Q. Or to the Board.
- A. Yes, sir. I would hope he wouldn't have to go as far as the Board, if he had a reasonable case.

THE CHAIRMAN: Pardon me, Mr. Covert, but did you use the word "discrimination"?

MR. COVERT: Yes.

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- Q. Do you think, Mr. Jefferson, that he would have as good a chance to show that the rate was unjust and unreasonable?
 - I don't know why not.

THE CHAIRMAN: You mean without discrimination? MR. COVERT: Yes, without discrimination or preference.

THE WITNESS: I don't know why not. I don't know how he could claim the rate was unjust or unreasonable if he was able to market his product. He must have some reason for asking for it.

THE CHAIRMAN: Q. In the first place, it would be no higher than the ceiling.

- That is right.
- The Board must have fixed its ceiling rate as being just and reasonable. I suppose the complainant might argue that the rate had become unjust and unreasonable for some reason or other. That might be?
 - Yes, sir.

MR. EVANS: What he says is that if a shipper can show that he cannot market his goods; that may show that they have become unjust and unreasonable.

MR. FRAWLEY: All that, and there isn't anybody who is considering the consumer; it is just a case of one shipper against another.

THE CHAIRMAN: We are prepared to hear from the consumers, Mr. Frawley. I have looked the point up, and I find that in the United States they do hear from the consumers.

MR. FRAWLEY: I am quite serious about it, my lord. Mr. Evans talks about the shippers. Mr. Jefferson, for the third time in the last five minutes, said that it

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wouldn't be unreasonable if the shipper can pay it. I am not concerned about the shipper; the shipper is the middle man; he is not the man who pays, it is the consumer.

MR. COVERT: Q. Mr. Jefferson, in the case of the Granby Consolidated Mining Company --

THE CHAIRMAN: Pardon me. Did you say you were not concerned with the shipper?

MR. FRAWLEY: I said I wasn't concerned with the shipper; I am concerned with the consumer. That is why I am sent here. He is the man who has to pay the freight.

THE CHAIRMAN: That is not the same thing. I thought you were concerned with the shipper.

MR. FRAWLEY: I am concerned primarily with the consumer in the Province of Alberta.

MR. O'DONNELL: You are changing your ground.

MR. FRAWLEY: I am not changing my ground. It is not the shipper in Canada who pays the freight; it is the consumer who pays the freight.

MR. MACPHERSON: The farmer does.

MR. FRAWLEY: That is the producer of the raw material. I certainly would amend my position to that extent.

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MR. FRAWLEY: That is the producer of the raw material. Yes, I certainly amend my position to that extent.

THE CHAIRMAN: And he is a shipper, you see. Well, for instance, you have the shipper of livestock from Alberta. He is a shipper, isn't he?

MR. FRAWLEY: Yes, sir, he is a producer of the raw material.

THE CHAIRMAN: And a shipper of it?

MR. FRAWLEY: Yes, he is a shipper.

THE CHAIRMAN: You are concerned about him getting fair treatment, aren't you?

MR. FRAWLEY: I am concerned. I am certainly; I am concerned with the producer who ships out of Alberta and the consumer who pays the freight in,

THE CHAIRMAN: You are concerned with the man who eats the beef the same as the man who ships it?

MR. FRAWLEY: The man who eats the beef in Ontario, I am not too concerned with him.

THE CHAIRMAN: What I have in mind, you see, is I am looking up some of these United States cases, and I find there, as distinct from shippers and railways there are cases where consumers themselves have appeared, and been represented by counsel. Their representations have been heard and considered.

THE WITNESS: But, as I understand it, Mr. Chairman - -

THE CHAIRMAN: In which case they would be both opposed to the shippers and the railways?

MR. FRAWLEY: That is right.

THE WITNESS: The term "shipper" as we use it, is both shipper and receiver of goods. He may not be

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the ultimate consumer, but he is the receiver at the point to which the goods are shipped.

THE CHAIRMAN: Well, in the case of a shipment then, you would have two shippers, one sending and one receiving. You would call them both shippers?

- A. It all depends who pays the freight, whether the shipper or the receiver.
- Q. Sometimes the sender is your shipper and sometimes the receiver?
 - A. That is right, yes, sir.

MR. COVERT: Now, Mr. Jefferson, I was going to say that you had a complaint from the Granby Consolidated Mining, Smelting and Power Company Limited, as to the rates which you charged them?

- A. On what?
- Q. I believe it was copper ore and copper concentrates?
- A. Yes, we have.
- Q. Now, do you know, Mr. Jefferson, whether or not their complaint was on the ground that the rates were unjust and unreasonable?
- A. I won't say it was on the ground that the rates were unjust and unreasonable.
 - Q. What did they say that the rates were too high?
- A. That the rates were too high for them to ship their goods, having regard to the prices obtainable for their resultant product.
 - Q. And they came to you?
 - A. Yes.
 - Q. And you said you did not agree with them?
 - A. That is right.
 - Q. So you told them to go to the Board?

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- No, sir, we did not tell them to to the Board at all.
 - Well, they went to the Board?
 - A. Yes, sir.
- And they asked the railway for particulars of increased.cost of operation and so on?
 - A. I believe so.
 - And their application for particulars was opposed?
 - Α. Yes.
 - Q. . And their application was dismissed?
 - A. That is right.
- Q. And in that case, the Board of Transport Commissioners, I think that was the case that Mr. Evans referred to the other day, said:

"The Board in dealing with the reasonableness of rates in the many cases dealt with, has never found it possible to lay down a precise formula whereby the reasonableness of a rate could be accurately determined".

THE CHAIRMAN: Who said that?

MR. COVERT: The Board of Transport Commissioners, Mr. Chairman.

THE CHAIRMAN: In which case?

MR. COVERT: That was in a case the Decision of which is published February 1, 1950. It is File No. 1179.57.

MR. EVANS: I am sure, Mr. Covert, you did not mean what I got as what you said, that the application was dismissed; it was merely the application for particulars?

MR. COVERT: That is correct, the application for particulars was dismissed.

THE CHAIRMAN: That is a very recent case, is it?

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MR. COVERT: Yes, Mr. Chairman.

THE CHAIRMAN: I would like to know more about it.

MR. COVERT: We will have a copy made for your lordship.

MR. EVANS: The Judgment is only one dealing with particulars, but the statement which was referable to this question of unjust and unreasonable rates simply said, that the Board could not lay down a precise formula, but it is only on an application for particulars.

MR. COVERT: It was just an application for particulars, my lord, and I think it would be fair to say it was dismissed on the ground that it would be a "radical departure from the value of service principle".

THE CHAIRMAN: What particulars were asked for? MR. COVERT: They were asking for particulars, Mr. Chairman, of -

"The cost of operating and servicing that portion of the line of the Canadian Pacific Railway used for the transportation of ore, from Copper Mountain to Allenby yearly during the years 1945 to 1949 inclusive, with breakdown as to wages, fuel, track and trestle repairs and maintenance, repairs and maintenance to cars and equipment, overhead and administrative expenses, depreciation of equipment, depreciation of the railway line (if any charged) and other incidental expenses.

THE CHAIRMAN: And the Board refused to make such an order?

MR. COVERT: Yes.

THE CHAIRMAN: Tell us again what they said in

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refusing the application?

MR. COVERT: They said:-

"Counsel for the respondents also suggested that if the cost of providing the service was taken as the measure of the applicable rate to be charged, such method would be a radical departure from the 'value of service' principle, and would tend to create an entirely new method of rate-making with possible ultimate detriment to all other rates".

Upon consideration of all that was presented in support, or in opposition to the application, and having regard to substantially similar matters previously dealt with by the Board, it is my opinion that the application for particulars should be refused."

THE CHAIRMAN: Well, that case apparently would be of interest, for instance, to British Columbia?

MR. COVERT: Yes, I think it would.

THE CHAIRMAN: Then, we will take a few minutes off.

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MR. COVERT: Now, Mr. Jefferson, in connection with that Granby Consolidated Case, have you since agreed with the company on a rate that is satisfactory to the two of you?

- A. No, sir.
- Q. You have not?

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Agrico de la compania Agrico de la compania Α. No, sir.

THE CHAIRMAN: Is that the last case you referred to before the adjournment?

MR. COVERT: Yes, my lord.

THE CHAIRMAN: It is still going on then, is it?

THE WITNESS: Yes, sir.

MR. COVERT: Now, Mr. Jefferson, would you say that this situation could exist, that a particular rate may be perfectly satisfactory to the railway and to the shipper because the shipper can conveniently pass the rate along to the consumer?

- A. I beg your pardon. Would you repeat that for me?
- That a rate may be perfectly satisfactory to the railway and to a shipper, because the shipper can pass it along to the consumer?
 - A. I suppose that is a possibility.
- Q. And that as long as that situation exists, perhaps there would not be apt to be complaints from the shipper?
 - A. That may be.
- And then the situation might arise, where the shipper could not pass the rate along to the consumer, and then perhaps the shipper would complain?
 - A: Yes, sir.

THE CHAIRMAN: But you are not excluding, are you, the possibility, that in the meantime the consumer might complain? You see, I am trying to find out whether he has ever complained to the Board and been heard.

MR. COVERT: Can we put it this way? Apart from Mr. Frawley, do you know of any place, where the consumer has complained?

A. I imagine there are cases where a consumer has

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complained?

- Q. In Canada?
- A. Yes, sir, I would say so.
- Q. Do you know of any case?
- A. I do not know that I could refer to them from memory.

THE CHAIRMAN: Can you give us a sort of case? I do not mean just a general complaint; I mean a complaint of a locality or town such as they have had in the United States?

- A. Well, you get complaints from a consuming area that the rates into that area are too high.
 - Q. By consumers?
 - A. Yes, sir.

COMMISSIONER INNIS: Would you get complaints from labour; that is to say, a shipper who is adversely affected, may very well decide to rearrange his plant, to perhaps discharge labour and put in macninery or he may decide in the case of hauling his raw material to use trucks rather than railways. Does that come into the picture at all?

- A. Are you speaking now of a shipper?
- Q. Yes.
- A. If a shipper complained of a rate and did not get the reduction that he asked for, he would no doubt try to apply such economies within his own industry as he could to overcome what he considered was a handicap and which the railways would not recognize, yes, sir.
- Q. You would not go into that question of the economies that he was forced to introduce at all?
 - A. We would not consider it in our discussions with

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him?

- Q. No.
- A. We might, but I am speaking now if we refused to reduce his rate on an application, and he might say: "Well, all right, you won't reduce my rate; I am going to effect other economies instead of paying the freight rate that you consider I should pay."

MR. COVERT: Then, Mr. Jefferson, would you say that this was a fair statement, that as long as the economic conditions of the country were such that the shipper could pass the rates along to the consumer, that there are not apt to be complaints from the shipper? I am not talking now of unjust discrimination or undue preference.

- A. Well, I do not know, but I would like to say this, that there are a lot of shippers who make complaints to the railways about freight rates, not only in their own interests, but in the consumer's interests.
 - Q. There are?
- A. Certainly, lots of them, and I can give you reference to one. I think it is only fair to say, the apple shippers of British Columbia. They do not pay the freight on apples, but they applied to the railways for a reduction in rates for the benefit of the consumers and for their own benefit too, because they thought they would market more of their apples if the rate was reduced.
- Q. That would not be competition that they would be interested in?

COMMISSIONER ANGUS: But if they cannot mass on the rate without diminishing the sale, that really means they cannot pass it on in full. Mr. Covert's question was,

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if the shipper can pass on the rate to the consumer, he would not complain. As I gather your answer was that he would pass it on to some consumers, but some of the consumers would be struck out so that he does not sell as much as before. He would complain in that situation, surely?

A. What I have more in mind, is that, we will say, they have a large apple crop, and they want to increase the consumption. Now, they say the rates are unfair, and they want the rates reduced so that there can be a larger consumption of apples, but a shipper does not always ask for a reduction entirely for his own benefit. At least in his applications he certainly alleges that he is looking after the consumer's interests as well as his own interests.

COMMISSIONER INNIS: Would you be suspicious of someone looking after the consumer's interests?

A. No, I would not be; I do not know why they should not.

THE CHAIRMAN: In the case you have in mind, is there competition from apples coming from elsewhere?

- A. No, sir.
- Q. But people may eat less apples if they have to pay more?
- A. If the rates are not reduced, yes, sir. They think a reduction in the rate on apples would increase the movement and consumption of apples.
 - Q. And that is in the interests of the shipper?
 - A. Yes, sir, too.

MR. COVERT: Mr. Jefferson, has there ever been a rate reduction, for instance, on British Columbia apples because of a large or small crop?

A. Yes, sir.

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- Q. There has been?
- Α. Yes, sir.
- When there was a large crop you reduced the rate?
- Yes, sir. Α.

THE CHAIRMAN: And when there was a small crop. The rates sometimes are higher?

- A. We would not put them higher, but we would restore the normal basis.
- Q. Then the consumer would have less apples and dearer ones?
- A. If he had less crop, yes, sir, but we have made emergency rates on apples because of an extremely heavy crop.
- Q. I would imagine this. I refer to you again, Mr. Frawley. Your application about having freight rates reduced on agricultural implements from the United States, that is a pure consumer application, isn't it?

MR. FRAWLEY: Yes, the receiver of the farm machinery in Alberta.

THE CHAIRMAN: And they are a very large class? MR. FRAWLEY: They are a very large and important class of people, sir.

THE CHAIRMAN: Well, that is an instance of a pure consumer demand?

MR. FRAWLEY: And free under the fiscal policy of Canada to buy in the United States free and invited to buy in the United States but having to pay what amounts to a customs tariff.

THE CHAIRMAN: I just want to get at the nature of the application. There is no customs tariff now against farm implements?

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MR. FRAWLEY: That is right, sir, there is not, but there is this handicap in freight rates.

MR. COVERT: Now, Mr. Jefferson, I wanted to ask you a little/about the extent of competition between the Canadian Pacific and the Canadian National. Apart from possible competition of providing services, would you say that there is really any competition between the two railways?

- A. I would not think so.
- ର୍. You would not think so?
- Α. No, sir, our rates are equal.
- And generally speaking, you say that they cooperate with one another?
 - A. Yes, sir.

THE CHAIRMAN: Well, we were told the other day that they have a conference of some sort for the fixing of freight rates. Is that right?

- A. Yes, sir.
- Q. They call that what?
- That was the Canadian Freight Association that we were discussing at the time.

MR. COVERT: Then, Mr. Jefferson, when the railways decided to make the application for the 30% increase, could you tell the Commission briefly the procedure that was followed? How did it start? I presume, for example, that the first thing that the Canadian Pacific did was to make an estimate of their financial requirements?

- A. That is right.
- Q. And then did the Canadian Pacific and Canadian National get together on the subject?

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- A. Yes, sir, but not only the Canadian Pacific and Canadian National, but all the railways would figure what increases in their rates were necessary in their own opinion, to be made.
- Q. Well now, I suppose as far as the other railways except the Canadian National are concerned, they would be in agreement with what the Canadian Pacific required?
- A. Well, the Canadian National as well. The increase was agreed upon among all the railways, but the answer to that is, that recent decisions of the Board for some years past have been based on the needs of the Canadian Pacific.
- Q. And I suppose when you go together that in fact it would be, to all intents and purposes, agreed that the Canadian Facific Railway would be the yardstick?
- A. That is right, the needs of the Canadian Pacific were not disproportionate with the needs of other railways except possibly the Canadian National who may have needed a larger increase to meet their requirements.

(Page 16578 follows)

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- Q. Then, as I say, you consulted, presumably, with the Canadian National?
 - A. Yes, sir.
- Q. Who decided, Mr. Jefferson, that the increase would be in the nature of a horizontal increase?
 - A. The railways.
 - Q. All of the railways?
 - A. Yes, sir.
- Q. And was there any disagreement between the railways as to whether or not this was the proper method?
 - A. No disagreement whatever.
 - Q. None at all?
 - A. No, sir.
- Q. They were all agreed that it should be horizontal?
 - A. Yes, sir.
- Q. Were they all agreed that there would be no exceptions in the case of horizontal increases?
 - A. Yes, sir.
 - Q. They were all agreed?
 - A. Yes, sir. The only exception was the coal and coke.
 - Q. No other method suggested?
 - A. No. sir.
 - Q. By anybody?
 - A. No, sir.
 - Q. Was the matter discussed at all with industry?
 - A. Before the application was launched?
 - Q. Yes.
- A. I do not think so; not in conference, but they no doubt were aware that we intended to make an application, but whenever an application was made to the Board copies were always sent, on the day the application was made to the Board, to the Boardsof Trade and Chambers of Commerce,

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-16579- Mr. Jefferson

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Manufacturers Association, Industrial Traffic League, all over the country.

- Q. They are on a regular mailing list?
- A. Yes, sir.

MR EVANS: There were additional ones. Perhaps
I could say this, that there were a large number of
additional copies sent to others than those on the regular
mailing list. The Board has ar specifying certain
ones, and we mailed others.

THE CHAIRMAN: Are the Provincial Governments on that list?

MR EVANS: They were.

THE WITNESS: Oh, yes, sir.

MR EVANS: We sent them to the Provincial Attorneys General.

MR COVERT: Q. Mr. Jefferson, I just wanted to be clear. Before the actual application was made and copies sent out, was it discussed with people in business or industry generally?

- A. No, sir; not formally, no, sir.
- Q. Not formally?
- A. No, sir.
- Q. Were there informal discussions?
- A. There might have been; I won't say there were not.
- Q. Well, would you say that there were?
- A. No, sir.
- Q. You would not?
- A. No, sir.
- Q. Then, you don't know whether there were or not?
- A. If it was it was just that you happened to see someone that you could discuss it with, that is all, but nothing pre-amranged.
 - Q. I was not suggesting any pre-arrangement, Mr. Jef-

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-16580- Mr. Jefferson

- ferson. What I wanted to find out was just what the railways do in a case like this. I mean, it was a large---
- A. The railways would not consider it necessary to discuss it with industry at all.
 - Q. They would not?
- A. No, sir. They would send industry copies of the application when made to the Board.
- Q. In other words, you say that as far as the rail-ways are concerned they figure out what they need, they figure out the method by which they are going to make the application, and business or industry or any other people affected have their opportunity to come before the Board when the application is being considered?
 - A. That is right.
- Q. But you do not discuss it with industry first to find out whether or not they have any suggestions to make as to the manner or type of increase?
 - A. No, sir.
- Q. Could you tell us, Mr. Jefferson, what made you decide that there should be a different treatment with respect to coal and coke?
- A. Well, the reason for the different treatment of coal and coke was because it has always been treated separately in both Canada and the United States; and there again you have in Canada two sets of rates on coal and coke; you have your rates for movements within Canada and you have your rates from the boundary gateways. Now, unless you increase all of your coal and coke rates by the same amount per ton, then you again destroy your relationship of rates through the different gateways. But coal and coke, it makes for a better increase, I think everyone will admit, it has always been foollowed that way, to increase it so much per ton.

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- Q. So it would be fair to say, then, that when you decided on the basis of different treatment for coal and coke, you really decided on that basis because that had always been done?
- A. Always been done, for good and sufficient reasons, yes, sir.
- Q. And you say there was no different treatment suggested for any other product?
 - A. That is right.
 - Q. By anyone?
 - A. That is right.
 - Q. In any of the railways?
 - A. That is right.
- Q. Now, in connection, Mr. Jefferson, with the Canadian Pacific suggestion about the repeal of the relevant sections of the Act with respect to the Crows Nest rates, did you discuss that matter with the Canadian National?
 - A. The repeal? Well, I didn't.
- Q. Do you know if there was any discussion?

 MR EVANS: I do, Mr. Covert. There was a discussion, yes..

MR: COVERT: There was a discussion?

MRR EVANS: Yes.

MRR O'DONNELL: I don't know; I was not there.

THE CHAIRMAN: Well, your brief says something about it.

MR O'DONNELL: Whatever it says is the fact, as I understand it.

MR COVERT: Q. You do not know the results of that discussion, Mr. Jefferson?

- A. No. sir.
- Q. Mow, Mr. Jefferson, just one more point, and I think

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that is all I have to discuss with you---

MR MACPHERSON: I wonder if that is all we are going to hear of that discussion?

THE CHAIRMAN: I beg your pardon?

MR MACPHERSON: There was a reference to the discussion as to the Crows Nest rates between the railways; is that all we are hearing about the discussion?

THE CHAIRMAN: Well, you see, we have not yet heard the Canadian National case. It does make some reference to the question.

MR COVERT: My own view, Mr. Chairman, is that when the Canadian National presents its brief we will have an opportunity, but I thought if Mr. Jefferson had been present at any of those discussions we might get some information that would be useful to us. I think I heard Mr. O'Donnell suggest that it might not be fair. I thought he said that it was not fair. If there was any lack of fairness I would like to know what it was.

MR O'DONNELL: Our brief at page 191 sets out our situation.

THE CHAIRMAN: Yes, it sets out your attitude on statutory rates.

MR O'DONNELL: Yes.

MR COVERT: Mr. Chairman, I certainly do not want there to be any allegation of unfairness. It seemed to me--

THE CHAIRMAN: No, I have not heard you ask anything unfair so far. I am ready to listen to any objection that somebody might make to your question.

MR O'DONNELL: I did not make any objection to that.

MR EVANS: That all arose because Mr. MacPherson wanted us to give something more of the conference that I spoke of, and, as I heard it, Mr. O'Donnell said, "Do you

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always disclose, Mr. MacPherson, all the conferences you have with the people on your side?"

MR O'DONNELL: That is all I said. I did not make any objection.

MR MACPHERSON: In any event, I was evincing an interest in Crows Nest rates and what the collaboration might have consisted of.

THE CHAIRMAN: Well, don't you think we are more concerned in finding out later what the collaboration is actually?

MR MACPHERSON: Yes, we can find that out.

MR COVERT: Q. Now, Mr. Jefferson, it is a fact,
I think, that in dealing with the Crows Nest rates you
felt that a comparison could be made between the United
States and Canadian rates?

- A. That is right.
- Q. I think you went so far as to say that there could be a fair comparison made; the situation was somewhat the same at least?
 - A. Yes, sir.
- Q. But when it comes to the question of horizontal increases and the method with which they treat horizontal increases in the United States, you say that the situation is entirely different in Canada, and there is really no proper comparison?
- A. That is right; but one is comparing principles and the other is comparing actual rates, resultant rates. Now, the grain rates went up horizontally in the United States. I do not think one has anything to do with the other.
- Q. I just want it clear, Mr. Jefferson. What you mean is that as far as the treatment of horizontal rates is concerned, you say that there is no comparison of the

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situation in the United States and in Canada?

- A. That is right. I say that one---
- Q. And that the guiding principles which rule before the Interstate Commerce Commission have no application here?
- A. That is right. I say one is the comparison of horizontal rates, the other is the comparison of actual rates resulting from horizontal increases or otherwise.

MR COVERT: Mr. Chairman, that is all I have to ask. I might say that Mr. Jefferson has been with us now for thirteen days, and I think I would like to thank Mr. Jefferson for all the time that he has given us.

THE CHAIRMAN: Yes, we are very grateful to Mr. Jefferson. He must be very tired, too.

MR EVANS: I have just one point on which I would like to ask Mr. Jefferson some questions.

RE-EXAMINED BY MR EVANS:

- Q. Mr. Jefferson, in an answer to Mr. Covert this morning you said that you did not have through class rates between the United States and Western Canada, because the combination of the local rates would be lower than would result?
 - A. Than rates in our own country.
 - Q. Yes.
 - A. Yes, sir.
- Q. And earlier you said that there were through class rates in Eastern Canada between the United States and Canada?
 - A. That is right.
- Q. Now, is there a difference in the rate levels in the Western United States as compared with the Eastern United States?

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- A. It is higher in Western United States than in Eastern United States.
- Q. What significance has that on the question as to whether there are or are not through class rates between Western Canada and Western United States?
- A. Well, the significance that I would attach to it is that the rates in Western United States are so high that if you take their rates to the boundary and add even our standard mileage rates north of the boundary, you get a lower rate for the international movement than the movement wholly within the United States for an equivalent distance.
- MR. EVANS: Now, the only other thing I wanted to say to the Commission before I am through is this: Mr. Covert asked Mr. Jefferson about traffic statistics, and he, I think, referred to Ex Parte 162, in which some reference was made to a commodity, I think it was cotton, in which Mr. Covert suggested that there were traffic statistics available in the SUnited States, in the Interstate Commerce Commission, which were not available here, and among them he indicated average length of haul and the tonnage of commodities. I just want to refer to the brief of Menitos Manitoba as the quickest reference, to show that those figures are available in this country. If the Commission refers to the printed brief of Manitoba you will find there in several of the tables in Appendix B references to the average length of haul, a large number of groups of commodities, and also I think to tonnage -- yes, the tonnages are also given for the different groups. So it is quite possible in this country to get tonnages and average length of haul for different commodities. I think the point is really that when you have got them you have not got what you need to determine this question as to the

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effect of a horizontal increase or a maximum increase.

I think that is perhaps the point that was not appreciated.

COMMISSIONER INNIS: Could we get a picture, Mr.

Evans, as to the extent to which American rate practice or regulation precludes regulation in Canada? You have mentioned this reference to comparison between rates in the Western States and rates in Western C nada. Now, looked at as a whole, it must be rather an impressive picture, suggesting that to a large extent Canadians have no control over their rates, that whatever control they have is pretty much a reflection or to some extent a reflection of the American rate situation.

MR EVANS: Well, I do not think there can be any doubt, Dr. Innis, that the situation in which we find ourselves with regard to international rates is greatly affected by the power and strength of the economy in the United States, the size of the United States railways and their interests, and the size of industry in that country. But I suppose that must be true, that a very large economy next door to a smaller economy must tend to influence the smaller to a greater extent than is reversely the case.

COMMISSIONER INNIS: Has anyone ever prepared a memorandum on the subject?

MR EVANS: Not to my knowledge.

MR COVERT: Mr. Chairman, I see we have just three more minutes, and I wondered if before adjournment -- I think, Mr. Evans, the next witness for the Canadian Pacific is Mr. Liddy?

MR EVANS: Mr., Liddy, yes.

THE CHAIRMAN: I beg your pardon?

MR COVERT: Thes next witness to be presented by the Canadian Pacific is [Mr. Liddy, and I thought perhaps Mr. Evans could tell us and this time, if he would, the wit-

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nesses that are to follow.

MR EVANS: I can say that Mr. Liddy, so far as
I am presently aware, will be followed by Mr. J. C.
Thompson, and I think Mr. J. C. Thompson will be followed
by Mr. Newman. We are also going to call Professor
McDougall and Mr. P. C. Armstrong, but I do not know exactly the order.

THE CHAIRMAN: Are you distributing these witnesses according to the subject matter with which they are going to deal? Mr. Liddy will deal with accounting?

MR EVANS: He will be dealing with accounting matters, yes.

THE CHAIRMAN: Then you mentioned Mr. Newman.

MR EVANS: Yes, I mentioned Mr. Newman.

THE CHAIRMAN: Is that also accounting?

MR EVANS: Oh, no. Mr. Thompson is going to give very short evidence on some specific subjects; and Mr. Newman, you may remember, was under discussion here. I think the Commission asked whether Mr. Newman would be called. I think perhaps there was some question about the way the research department operates and about the diesel programme and so on, and then there was the study of the savings through the diesel programme. Mr. Newman will deal with that; he made that study.

MR COVERT: Thank you very much. I thought it would be---

MR MACPHERSON: Mr. Chairman, Mr. Evans has suggested that Mr. J. C. Thompson would be giving evidence on certain specific subjects. Now, it would probably shorten time if information could be given as to the subjects on which he is giving evidence. I mean, there is a great range of subjects on which he might give evidence.

THE CHAIRMAN: Well, Mr. Thompson is coming on

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immediately after Mr. Liddy?

MR EVANS: Yes, so far as I know now, sir.

THE CHAIRMAN: What is the subject of his evidence?

MR EVANS: He is giving evidence on one or two questions related to accounting subjects.

THE CHAIRMAN: Accounting subjects?

MR EVANS: Accounting subject, yes.

THE CHAIRMAN: Does that satisfy you?

MR MACPHERSON: Yes. Well, I take it that that will be on depreciation, Mr. Evans; is that right?

MR EVANS: To tell you the truth, I can't remember; but there will be nothing new from Mr. Thompson.

MR MACPHERSON: Well, we have had Mr. Thompson before in the Board of Transport Commissioners, and there is such a field that he can and will cover that I felt it would be helpful, certainly to Provincial counsel, if we knew what he was going to cover.

THE CHAIRMAN: Well, there is no use in our covering it in advance, you see. Mr. Liddy and Mr. Thompson are going to deal with accounting?

MR EVANS: Yes.

MR COVERT: I want to thank Mr. Evans. I thought it might be advisable to have it, so that all counsel could know and prepare for it. That is all I asked.

MR EVANS: I may say that it is more information than we got from our friends.

⁻⁻⁻The Commission adjourned at 4:45 p.m., to meet again at 10:30 a.m. on Tuesday, February 28, 1950.

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